

Wochnick, Heather M CIV USN (US)

From: McCay, Patrick J CIV OASN (EI&E), BRAC PMO West
Sent: Friday, July 09, 2010 8:17
To: Gilkey, Douglas E CIV OASN (EI&E), BRAC PMO West; Cummins, John M CIV NAVFAC SW; Macchiarella, Thomas L CIV OASN (EI&E), BRAC PMO West; Larson, Elizabeth A CIV OASN (EI&E), BRAC PMO West; Bui, An H CIV OASN (EI&E), BRAC PMO West
Subject: FW: CP-HPS EIR Certification Appeal
Attachments: CPHPS Ph II FEIR Appeal Response Attachments A & B.pdf; CPHPS Ph II FEIR Appeal Response Memo.pdf

Categories: Hunters Point

FYI. Read below.

-----Original Message-----

From: Cook, Kyle R. [mailto:KYLE.R.COOK@saic.com]
Sent: Thursday, July 08, 2010 12:10
To: McCay, Patrick J CIV OASN (EI&E), BRAC PMO West
Cc: Lissner, Andrew L.
Subject: CP-HPS EIR Certification Appeal

Patrick,

The Appeal documents from the City are attached for your reference. You will notice that the term "Project" is now used to define all alternatives or variants that were approved and could be selected for redevelopment.

Also, I just received a Notice of Public Hearing letter regarding the meeting next Tuesday. It involves the City and Board of Supervisors and the appeals, with the intent to finalize the EIR.

Kyle

Kyle Cook

Sr. Environmental Engineer/Project Manager

SAIC

10260 Campus Point Drive, MS D-4H

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Attachment A

PC Motion No. 18096



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Motion No. 18096

HEARING DATE: June 3, 2010

Date: May 20, 2010
Case No.: 2007.0946E
Project: Candlestick Point-Hunters Point Shipyard Phase II
Development Plan
Location: Candlestick Point and Hunters Point Shipyard
Staff Contact: Lisa Gibson – (415) 575-9032
lisa.gibson@sfgov.org
Recommendation: Adopt the EIR Certification Findings

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ADOPTING FINDINGS RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR A PROPOSED CANDLESTICK POINT-HUNTERS POINT SHIPYARD PHASE II DEVELOPMENT PLAN.

MOVED, that the San Francisco Planning Commission (hereinafter "Planning Commission") hereby CERTIFIES the Final Environmental Impact Report (hereinafter "FEIR") identified as Case No. 2007.0946E, Candlestick Point-Hunters Point Shipyard Phase II Development Plan (hereinafter "Project"), based upon the following findings:

1. The City and County of San Francisco, acting through the Planning Department (hereinafter "Department"), together with the San Francisco Redevelopment Agency (hereinafter "Agency"), acting as a joint lead agencies, fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 *et seq.*, hereinafter "CEQA"), the State CEQA Guidelines (Cal. Admin. Code Title 14, Section 15000 *et seq.*, hereinafter "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31").
 - A. The Department and the Agency determined that an Environmental Impact Report (hereinafter "EIR") was required and on September 1, 2007, published a Notice of Preparation of an EIR and Notice of Public Scoping Meetings (hereinafter "NOP"), and provided public notice thereof by publication in a newspaper of general circulation on September 1, 2007.
 - B. On September 1, 2007, the Department and the Agency mailed the NOP to local, state, and federal agencies and other interested parties, initiating a 30-day public comment period that extended through September 2007.
 - C. The Department and the Agency filed a Notice of Completion of the NOP with the State Secretary of Resources via the State Clearinghouse on August 31, 2007.
 - D. The Department and the Agency held public scoping meetings on September 17, 2007, and September 25, 2007 in order to receive public input regarding the proposed scope of the EIR

analysis. Attendees were provided an opportunity to voice comments or concerns regarding potential effects of the Project.

- E. On November 12, 2009, the Department and the Agency published the Draft Environmental Impact Report (hereinafter "DEIR") and provided public notice in a newspaper of general circulation of the availability of the DEIR for public review and comment and of the date and time of the Planning Commission and Redevelopment Agency Commission (hereinafter "Agency Commission") public hearings on the DEIR.
 - F. On November 10 and 11, 2009, notices of availability of the DEIR or copies of the DEIR were mailed or otherwise delivered to a list of persons requesting such items, to those noted on the distribution list in the DEIR, and to government agencies, the latter both directly and through the State Clearinghouse.
 - G. Notice of Completion of the DEIR was filed with the State Secretary of Resources via the State Clearinghouse on November 12, 2009.
 - H. Notices of availability of the DEIR and of the date and time of the public hearing were posted near the project site by the project sponsors on November 18, 2009.
- 2. The Planning Commission held a duly advertised public hearing on said DEIR on December 17, 2009, and the Agency Commission held a duly advertised public hearing on said DEIR on December 15, 2009, and January 5, 2010. At each of the aforementioned public hearings, opportunity for public comment was given and public comment was received on the DEIR. The period for acceptance of written comments on the DEIR ended January 12, 2010.
 - 3. The Department and the Agency prepared responses to comments on environmental issues received at the public hearing and in writing during the 60-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIR. This material was presented in a Comments and Responses document, published on May 13, 2010 and mailed or otherwise delivered to the Planning Commission, all parties who commented on the DEIR, and other interested parties, and made available to others upon request at Department offices.
 - 4. A FEIR has been prepared by the Department and the Agency, consisting of the DEIR, any consultations and comments received during the review process, any additional information that became available, and the Comments and Responses document all as required by law.
 - 5. Project EIR files have been made available for review by the Planning Commission and the public. These files are available for public review at the Department offices at 1650 Mission Street, Suite 400, and are part of the record before the Planning Commission.
 - 6. On June 3, 2010, the Planning Commission reviewed and considered the FEIR and hereby does find that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.

7. The project sponsors have indicated that the Project identified in Chapter II of the FEIR, as modified by Variant 3D (hereinafter "the Candlestick Tower Variant D") and Variant 5 (hereinafter "the 49ers/Raiders Shared Stadium Variant") as described in Chapter IV of the FEIR, constitute the Project if the stadium is constructed. If the stadium is not constructed, the Project as described in Chapter II of the FEIR together with the Candlestick Tower Variant D and either Variant 1 (hereinafter "the R&D Variant") or Variant 2A (hereinafter "the Housing/R&D Variant") constitute the Project. In addition, if the stadium is not constructed, the Project includes Subalternative 4A (hereinafter "CP-HPS Phase II Development Plan with Historic Preservation") as described in Chapter VI of the FEIR; the developer will determine the ultimate feasibility of its implementation at a later time.
8. The Planning Commission hereby does find that the FEIR concerning File No. 2007.0946E reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the DEIR, and hereby does CERTIFY THE COMPLETION of said FEIR in compliance with CEQA and the CEQA Guidelines.
9. The Planning Commission, in certifying the completion of said FEIR, hereby does find that the Project described in the EIR and the Project preferred by the project sponsors, described above under Finding 7, above:
 - A. Will have project-specific significant effects on the environment including:¹
 - a. **Impact TR-1: Effect of Project Construction on Vehicle Traffic and Roadway Construction on Transportation System.** The Project would impact the transportation system through construction vehicle traffic and roadway construction and contribute to cumulative construction impacts in the vicinity of the Project.
 - b. **Impact TR-2: Effect of Project on Traffic Volumes.** The Project would cause an increase in traffic that would be substantial relative to the existing and proposed capacity of the street system.
 - c. **Impact TR-3: Effect of Project Traffic at Certain Area Intersections.** The Project would have significant impacts on nine intersections in the Project vicinity, and would contribute to cumulative traffic conditions at these intersections: Third Street at Oakdale, Revere, Carroll, Jamestown, Jerrold and Williams/Van Dyke; and Bayshore Boulevard at Paul, Cortland and US 101 Northbound Off-ramp/Cesar Chavez.
 - d. **Impact TR-4: Effect of Project Traffic at Tunnel/Blanken.** The Project would result in significant Project AM peak hour traffic impacts and contribute to cumulative PM peak hour traffic impacts at the intersection of Tunnel/Blanken.

¹ Impacts listed under Finding 9A are project-specific impacts, with the exception of impacts related to transportation and circulation (denoted with the alpha-numeric code "TR-"), which, as described, include both project-specific and cumulative impacts.

- e. **Impact TR-5: Project Contribution to Traffic at Degraded Intersections.** The Project would contribute significant traffic to intersections in the Project vicinity that would operate at LOS E or LOS F under 2030 No Project conditions. The Project contributions to cumulative traffic conditions would be significant in twenty intersections in the Project vicinity, and at sixteen of these intersections no feasible mitigation measures were identified. These sixteen intersections are: Third Street at 25th Street, Cesar Chavez Street, Cargo Way, Evans Avenue, Palou Avenue and Paul Avenue; Bayshore Boulevard at Visitacion Avenue, Alemany Boulevard/Industrial Street, Blanken, Bacon Street and Sunnydale Avenue; San Bruno Avenue at Paul Avenue, Silver Avenue and Mansell Avenue/US 101 Southbound Off-ramp; Cesar Chavez Street at Pennsylvania/I 280; and Evans Avenue at Napoleon Avenue/Toland Street. (The other four intersections are discussed below, under Impacts TR-6, TR-7 and TR-8.).
- f. **Impact TR-6: Project Traffic at Freeway Ramps.** The Project would contribute significant traffic at the intersections of Geneva/US 101 Southbound Ramps and Harney/US 101 Northbound Ramps, which would operate at LOS F under 2030 No Project conditions.
- g. **Impact TR-7: Project Traffic at Amador/Cargo/Illinois.** The Project would contribute significant traffic to the intersections of Amador/Cargo/Illinois, which would operate at LOS E under 2030 No Project conditions;
- h. **Impact TR-8: Project Traffic at Bayshore/Geneva.** The Project would contribute significant traffic to the intersection of Bayshore/Geneva, which would operate at LOS F under 2030 No Project conditions.
- i. **Impact TR-10: Project Traffic Effects.** The Project would result in increased traffic volumes on area roadways, and most substantially on key north/south and east/west streets, which would also experience cumulative traffic growth. As a result, the existing residential streets could be used as "cut-throughs," shortcuts, or bypasses by non-neighborhood traffic. Substantial amounts of cut-through traffic can result in impacts such as noise, safety impacts to pedestrians, impaired driveway access, interference with emergency vehicle access, increased dust, exhaust, and litter, and similar annoyances that adversely affect neighborhood character.
- j. **Impact TR-11: Project Traffic at Freeway Segments.** The Project would contribute cumulatively considerable amounts of traffic to four freeway segments expected to operate at LOS E or LOS F under 2030 No Project conditions, specifically, US 101 northbound from Sierra Point to Alana/Geneva/Harney; US 101 southbound from the I 80 Merge to Cesar Chavez; US 101 southbound from Third/Bayshore to Alana/Geneva/Harney; and US 101 southbound from Alana/Geneva/Harney to Sierra Point.
- k. **Impact TR-12: Project Traffic Impact at Freeway Ramps.** The Project would cause four ramp junctions to deteriorate from acceptable LOS D or better to LOS E or F conditions or

from LOS E to LOS F conditions, specifically, the US 101 northbound on-ramp from Alemany Boulevard; US 101 northbound on-ramp from Harney Way; US 101 northbound on-ramp from Bayshore Boulevard/Cesar Chavez Street; US 101 southbound on-ramp from Harney Way/Geneva Avenue.

- l. **Impact TR-13: Project Traffic Contribution to Cumulative Impacts at Freeway Ramps.** The Project would contribute to significant cumulative traffic impacts at 12 freeway ramp locations. The Project would contribute cumulatively significant traffic increases at ramp junctions projected to operate at LOS E or LOS F under 2030 No Project conditions, specifically: US 101 northbound on-ramp from Sierra Point Parkway; US 101 northbound on-ramp from Harney Way; US 101 northbound on-ramp from Alemany Boulevard; US 101 northbound on-ramp from Bayshore Boulevard/Cesar Chavez Street; US 101 southbound off-ramp to Bayshore Boulevard/Cesar Chavez Street; US 101 southbound on-ramp from Third Street/Bayshore Boulevard; US 101 southbound on-ramp from Harney Way/Geneva Avenue; US 101 southbound on-ramp from Sierra Point Parkway; I 280 northbound off-ramp to Cesar Chavez Street; I 280 northbound on-ramp from Indiana Street/25th Street; I 280 southbound off-ramp to Pennsylvania Avenue/25th Street; and I 280 southbound on-ramp from Pennsylvania Avenue/25th Street.
- m. **Impact TR-14: Project Traffic Impact to Diverge Queue Storage at Harney/US 101 Northbound Off-ramp.** The Project would result in significant impacts related to freeway diverge queue storage at the Harney/US 101 Northbound Off-ramp. The Project would result in increases in traffic volumes that would cause the US 101 northbound off-ramp to Harney Way to experience queues that may extend back to the upstream freeway mainline segment which could result in unsafe conditions on the freeway mainline, resulting in significant traffic impacts at this location.
- n. **Impact TR-15: Project Traffic Contribution to Diverge Queue Storage Impacts.** The Project could contribute to significant cumulative traffic impacts related to freeway diverge queue storage at some off-ramp locations: US 101 northbound off-ramp to Harney Way and Bayshore/Cesar Chavez; US 101 southbound Off-ramp to Harney Way/Geneva Avenue and Sierra Point/Lagoon; and I-280 northbound off-ramp at Cesar Chavez.
- o. **Impact TR-21: Project Traffic Impacts to 9-San Bruno Transit Line.** The Project would increase congestion and contribute to cumulative conditions at intersections along San Bruno Avenue, which would increase travel times and impact operations of the 9-San Bruno. Project-related transit delays due to traffic congestion and passenger loading delays associated with increased ridership would result in significant impacts on the operation of the 9-San Bruno, which would add up to 8 minutes of delay per bus during peak hours.
- p. **Impact TR-22: Project Traffic Impacts to 23-Monterey, 24-Divisadero, 44-O'Shaughnessy Transit Lines.** The Project would contribute traffic to cumulative conditions at intersections along Palou Avenue, which would increase travel times and

impact operations of the 23-Monterey, 24-Divisadero, and the 44-O'Shaughnessy. Project-related transit delays due to traffic congestion and passenger boarding delays associated with increased ridership would result in significant impacts on the operation of the 23-Monterey, 24-Divisadero, and 44-O'Shaughnessy along Palou Avenue, which would add up to 7 minutes of delay per bus during peak hours.

- q. **Impact TR-23: Project Traffic Impacts to 29-Sunset Transit Line.** The Project would increase congestion at intersections along Gilman Avenue and Paul Avenue, which would increase travel times and would impact operations of the 29-Sunset. Project-related transit delays due to traffic congestion and passenger loading delays associated with increased ridership would result in significant impacts on the operation of the 29-Sunset, particularly at Third Street and Bayshore Boulevard. Overall, the Project-related congestion would add up to 17 minutes of delay per bus during peak hours.
- r. **Impact TR-24: Project Traffic Impacts to 48-Quintara-24th Street Transit Line.** The Project would increase congestion at intersections along Evans Avenue, which would increase travel times and impact operations of the 48-Quintara-24th Street. Project-related transit delays due to traffic congestion and passenger loading delays associated with increased ridership would result in significant impacts on the operation of the 48-Quintara-24th Street along Evans Avenue, particularly at intersections of Third Street, Napoleon/Toland Streets and at Cesar Chavez Street. Overall, the Project-related congestion would add up to 3 minutes of delay per bus during peak hours.
- s. **Impact TR-25: Project Traffic Impacts to 54-Felton Transit Line.** The Project would increase congestion at several intersections in the area, and make a considerable contribution to cumulative impacts that would increase travel times and impact operations of the 54-Felton. The Project would create traffic congestion resulting in significant impacts to the operations of the 54-Felton, adding up to 6 minutes of delay per bus, particularly during the PM peak hour.
- t. **Impact TR-26: Project Traffic Impacts to T-Third Transit Line.** The Project would increase congestion at intersections along Third Street, and make a considerable contribution to cumulative impacts that would increase travel times and impact operations of the T-Third. Project-related transit delays due to traffic congestion on Third Street and passenger loading delays associated with increased ridership would result in significant impacts on the operation of the T-Third, particularly in the segment between Thomas Avenue and Kirkwood Avenue, resulting in overall delays of up to 3 minutes per bus during peak hours.
- u. **Impact TR-27: Project Traffic Impacts to 28L-19th Avenue/Geneva Limited Transit Line.** The Project could increase congestion at the intersection of Geneva Avenue and Bayshore Boulevard, increasing travel times and impacting operations of the 28L-19th Avenue/Geneva Limited. Increased congestion associated with Project vehicle trips would impact the operations of the 28L-19th Avenue/Geneva Limited, resulting in delays of 4 minutes per bus during peak hours.

- v. **Impact TR-28: Project Traffic Impacts to 9X, 9AX, 9BX-Bayshore Expresses and 14X-Mission Express Transit Lines.** The Project would increase congestion on US 101 mainline and ramps, which would increase travel times and impact operations of the 9X, 9AX, 9BX-Bayshore Expresses, and 14X-Mission Express. The Project would also contribute to cumulative impacts on these transit routes on US 101.
- w. **Impact TR-30: Project Traffic Impacts to SamTrans Bus Lines.** The Project would increase congestion and contribute to cumulative congestion on US 101 and on Bayshore Boulevard, which would increase travel times and adversely affect operations of SamTrans bus lines on these facilities.
- x. **Impact TR-32: Project Traffic Impacts to Bicycle Routes.** Implementation of the Project's proposed transit preferential treatments and significant increases in traffic volumes on Palou Avenue could result in impacts on bicycle travel on Bicycle Routes #70 and #170 between Griffith Street and Third Street. The combination of the proposed transit preferential treatment and the substantial increase in traffic volumes and congestion would result in potentially significant impacts on bicycle travel on Bicycle Route #70 and Bicycle Route #170 on Palou Avenue.
- y. **Impact TR-38: 49ers Game Site Access and Traffic Impacts.** Implementation of the proposed 49ers stadium would result in significant impacts on study area roadways and intersections, for as many as 12 times a year.
- z. **Impact TR-39: Stadium 49er Game Transit Impacts.** Implementation of the Project with existing game day service and Project transit improvements would not be adequate to accommodate projected transit demand. It is estimated that there would be a capacity shortfall of approximately 3,640 passengers per hour during game days.
- aa. **Impact TR-46: Stadium Secondary Event Site Access and Traffic Impacts.** Weekday evening secondary events at the stadium would result in increased congestion at intersections, freeway mainline, and freeway ramps already operating at unacceptable LOS under Project conditions without a secondary event, and result in significant impacts at nine additional intersections and one additional freeway off-ramp.
- bb. **Impact TR-47: Stadium Secondary Event Transit Impacts.** With implementation of the Project, the existing transit service and Project improvements would not be adequate to accommodate projected transit demand during secondary events with attendance of 37,500 spectators. In addition, transit lines serving the area would experience additional delays due to traffic generated by the secondary event.
- cc. **Impact TR-51: Project Site Access and Traffic Impacts from Arena Uses.** With implementation of the Project, weekday evening events at the arena would exacerbate congestion at intersections, freeway mainline, and freeway ramps already operating at unacceptable LOS under Project conditions without an arena event, and result in significant traffic impacts at Harney Way and Jamestown Avenue, which would

operating acceptably under Project conditions without an arena event. Overall, since local streets and freeway facilities would experience increased congested without an arena event, traffic impacts associated with the new arena would be significant.

- dd. **Impact TR-52: Transit Impacts from Arena Uses.** With implementation of the Project, the existing and proposed transit service would be affected by sell-out weekday evening events at the arena. With the stadium use at HPS Phase II, transit capacity would be adequate to accommodate projected transit demand, but because of traffic congestion in the area, impacts to transit would result. With the implementation of Variants 1 or 2A at the stadium site, traffic congestion would impact transit service and in addition, events at the arena might cause transit capacity impacts.
- ee. **Impact AQ-4: Criteria Pollutants from Project Operations.** Operation of the Project would violate the Bay Area Air Quality Management District (BAAQMD)'s CEQA significance thresholds for mass criteria pollutant emissions from mobile and area sources, and contribute substantially to an existing or projected air quality violation at full build-out in the year 2029. Project emissions of ROG, NO_x and PM₁₀ would exceed the BAAQMD CEQA thresholds and the ROG, NO_x, PM₁₀ and PM_{2.5} proposed BAAQMD CEQA thresholds.
- ff. **Impact NO-2: Groundborne Vibration Impacts from Construction.** Construction activities associated with the Project would create excessive groundborne vibration levels in existing residential neighborhoods adjacent to the Project site and at proposed on-site residential uses should the latter be occupied before Project construction activities on adjacent parcels are complete.
- gg. **Impact NO-3: Increase in Ambient Noise Levels from Construction.** Construction activities associated with the Project would result in a substantial temporary or periodic increase in ambient noise levels. Construction activities occurring within the Project site and in the Project vicinity for roadway and infrastructure improvements would involve demolition, grading, and excavation activities, followed by construction and external finishing of the proposed facilities and associated parking areas, as well as roadway and landscaping improvements. These activities would involve the use of heavy equipment.
- hh. **Impact NO-6: Noise Impacts from Project Traffic.** Operation of the Project would generate increased local traffic volumes that would cause a substantial permanent increase in ambient noise levels in existing residential areas along the major Project site access routes. The increase in traffic resulting from implementation of the Project and ambient growth over the next 20 years would increase the ambient noise levels at noise-sensitive locations along the major vehicular access routes to the Project site, particularly along sections of Jamestown Avenue, Carroll Avenue, and Gilman Avenue.
- ii. **Impact NO-7: Noise Impacts from Stadium Events.** Noise during football games and concerts at the proposed stadium would result in temporary increases in ambient noise levels that could adversely affect surrounding residents for the duration of a game or

concert. There would be significant noise impacts during football game days and concert days on the existing residential uses closest to the proposed stadium and possibly for the new residential uses closest to the proposed stadium.

- jj. **Impact CP-1b: Impacts to Historic Resources from Construction Activities.** Construction at HPS Phase II could result in a substantial adverse change in the significance of an historical resource. Implementation of the Project could result in the demolition of Buildings 211, 224, 231, and 253, which have been identified as historic resources in the potential Hunters Point Commercial Dry Dock and Naval Shipyard Historic District.
- kk. **Impact SH-1a: New Shadow on Gilman Park from Tower Variants 3C and 3d.** Under Tower Variants 3C and 3D, new shadows on Gilman Park are conservatively considered significant; and

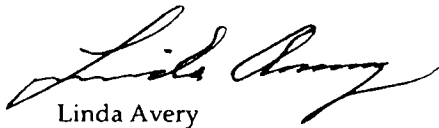
B. Will have significant cumulative effects on the environment including:²

- a. **Cumulative Contribution of Criteria Pollutants from Project Operation.** Operation of the Project would violate BAAQMD CEQA significance thresholds for mass criteria pollutant emissions from mobile and area sources and contribute substantially to an existing or projected air quality violation at full build-out.
- b. **Cumulative Contribution to TAC and PM_{2.5} Impact Under the Proposed Bay Area Air Quality Management District CEQA Guidelines.** The Project may result in a considerable contribution to a cumulative air quality impact regarding TACs and PM_{2.5} emissions under proposed BAAQMD CEQA Guidelines.
- c. **Cumulative Contribution to Noise from Construction Activities.** Construction activities such as use of heavy equipment and pile driving associated with development of cumulative projects could contribute to a cumulative impact from increased noise levels for both off-site and on-site sensitive receptors.
- d. **Cumulative Contribution to Pile-Driving Activities.** Construction of the Project would include pile-driving activities that may overlap with other nearby construction activities during Project development and make a considerable contribution to cumulative construction-related temporary increases in ambient noise levels.
- e. **Cumulative Contribution to Traffic Noise Levels.** Project operation would make a considerable contribution to a substantial, permanent increase in cumulative traffic noise levels that would affect existing and future residential uses along all Project site access roads.

² Finding 9B lists cumulative impacts of the project, with the exception of cumulative impacts related to transportation and circulation, which are reflected under Finding 9A (see impacts listed therein denoted with the alpha-numeric code "TR-").

- f. **Cumulative Contribution to Ambient Noise During Stadium Events.** Project operation would make a considerable contribution to a substantial increase in cumulative noise during stadium events.
- g. **Cumulative Contribution to Vibration Effects During Construction Activities.** Pile-driving activities during construction could make a considerable contribution to cumulative vibration effects if pile driving would occur and/or heavy construction equipment would operate on multiple sites and collectively result in vibration impacts in excess of 85 VdB at nearby sensitive receptors.
- h. **Cumulative Contribution to Impacts on Historic Resources.** The Project would make a considerable contribution to a cumulative impact on significant historical resources, including residential, commercial, and civic properties that are listed or eligible for listing on national, state, or local registers.
- i. **Cumulative Contribution to Demand for Police Services.** Development of cumulative projects within the City of San Francisco would result in increased population and employment-generating uses and associated increased demand for police protection. While the Police Department considers population growth projections in its annual budgeting process to determine equipment and staffing needs for the coming year, it is possible that cumulative growth in the City could exceed the capacity of existing or planned staffing and facility improvements, and could require construction of one or more stations, resulting in a significant impact. Because the Project would require new or physically altered police facilities in order to maintain acceptable police services, the Project would make a cumulatively considerable contribution to a potential significant cumulative impact on police services.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting of June 3, 2010.


Linda Avery
Commission Secretary

AYES: 4 - Miguel, Antonini, Borden, and Lee

NOES: 3 - Olague, Moore, Sugaya

ABSENT: 0

ADOPTED: June 3, 2010

Attachment B

Memo to CPC from Planning Dept.

May 20, 2010

Memo to Redevelopment Commission
from Fred Blackwell

June 3, 2010



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

DATE: May 20, 2010

TO: Planning Commission President Ron Miguel
Members of the Planning Commission

FROM: Lisa Gibson, Senior Planner, Major Environmental Analysis *LG*

RE: Case No. 2007.0946E, Candlestick Point-Hunters Point Shipyard
Phase II Development Plan Project
June 3, 2010 EIR Certification

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A joint Planning Commission-Redevelopment Agency Commission meeting is scheduled for June 3, 2010, at which meeting both Commissions will consider certification of the Final Environmental Impact Report for the proposed Candlestick Point – Hunters Point Shipyard Phase II Development Plan Project. A draft EIR certification motion for the Planning Commission is attached.

In addition, attached for your information is a memorandum prepared by Redevelopment Agency staff to Agency Commissioners for the June 3, 2010 meeting. The memorandum summarizes the proposed project, variants to the project, alternatives to the project, the environmental review process, and the environmental impacts of the project. You may find this to be of interest.

Please contact me at (415) 575-9032 if you have questions regarding this matter or if I can be of assistance.

MEMORANDUM

TO: Agency Commissioners

FROM: Fred Blackwell, Executive Director

SUBJECT: Certifying a Final Environmental Impact Report for the Proposed Candlestick Point – Hunters Point Shipyard Phase II Development Plan Project pursuant to the California Environmental Quality Act; Bayview Hunters Point and Hunters Point Shipyard Redevelopment Project Areas

EXECUTIVE SUMMARY

On May 15, 2007, the Commission, and subsequently the San Francisco Board of Supervisors (the “Board”), endorsed the Conceptual Framework that sets forth goals and principles to govern the proposed Candlestick Point – Hunters Point Shipyard Phase II development plan project (the “Project”), which includes the possible development of a new 49ers stadium on Hunters Point Shipyard. Following the Board’s action, Agency staff has been working with staff of the San Francisco Planning Department (“Planning Department”) on an Environmental Impact Report (“EIR”) on the proposed Project. Completion of the EIR includes the preparation of a Draft EIR, a public review period for the Draft EIR, and preparation of responses to all substantive comments received on the Draft EIR in a Comments and Responses document (the “C&R”).

The Candlestick Point-Hunters Point Shipyard Phase II EIR is a Redevelopment Plan EIR and a project EIR. This EIR evaluates the environmental effects of the proposed Project at a project level of detail and examines all phases of the Project, including planning, construction, and operation, as well as the direct, indirect, and cumulative impacts that might result. The Project includes the proposed development of Candlestick Point and Hunters Point Shipyard Phase II, the proposed amendments of the Bayview Hunters Point and Hunters Point Shipyard Redevelopment Plans, and the proposed amendments of the San Francisco *General Plan* and the San Francisco *Planning Code*.

Prior to consideration of the proposed Project, the Redevelopment Agency Commission and the Planning Commission must certify that the Final EIR is adequate, accurate, and objective and has been completed pursuant to the California Environmental Quality Act (“CEQA”). The Agency Commission and Planning Commission have received the C&R under separate cover on May 13, 2010. The Commissions have previously received the Draft EIR. The C&R, together with the DEIR, constitutes the Final Environmental Impact Report (“Final EIR”) for the proposed Project.

Agency staff recommends the certification of the Final Environmental Impact Report on the Candlestick Point – Hunters Point Shipyard Phase II redevelopment plan project as adequate, accurate and objective, finding that it has been completed in compliance with applicable

provisions and requirements of the California Environmental Quality Act and the Guidelines for Implementation of the California Environmental Quality Act.

DISCUSSION

Proposed Project

The Candlestick Point – Hunters Point Shipyard Phase II development plan project is located on approximately 702-acres east of U.S Highway 101 in the southeastern portion of San Francisco. It occupies the waterfront area from south of India Basin to Candlestick Cove. The proposed Project, as described in the Draft EIR, includes a development project component that would create a mixed-use community with a wide range of residential, retail, office, research and development, civic and community uses, and parks and recreational open space. A major part of the development project would be a new stadium for the San Francisco 49ers National Football League team. Additionally, new transportation and utility infrastructure would serve the Project including a bridge across Yosemite Slough for transit and football game day traffic.

The proposed Project is located in two Redevelopment Project Areas governed by two redevelopment plans: the Hunters Point Shipyard (“HPS”) Redevelopment Plan and the Bayview Hunters Point (“BVHP”) Redevelopment Plan. The HPS Redevelopment Plan includes policies and development controls for the HPS Phase II portion of the Project site, and the BVHP Redevelopment Plan, which addresses the Candlestick Point portion of the Project site. Additionally, Proposition G, approved by San Francisco voters in June 2008, adopted a comprehensive set of development policies and objectives for the development project. The Project includes amendments of the BVHP Redevelopment Plan and the HPS Redevelopment Plan and Design for Development, as well as revisions to the San Francisco *General Plan*, *Planning Code*, and the Zoning Maps.

The development project component of the proposed Project includes development of 10,500 residential units with an associated population of 24,465 residents; 885,000 gross square feet (gsf) of retail; 150,000 gsf of office; 2.5 million gsf of Research & Development (“R&D”) uses; a 220-room, 150,000 gsf hotel; 255,000 gsf of artist live/work space; 100,000 gsf of community services; 251.3 acres of new parks, sports fields, and waterfront recreation areas, as well as 84 acres of new and improved State parkland; a 69,000-seat 49ers stadium; and a 75,000 gsf performance arena. The permanent employee population associated with the Project would be 10,730.

In addition, a 300-slip marina would be provided on HPS Phase II. Shoreline improvements would also be provided to stabilize the shoreline. The Project would include structured and on-street parking and various infrastructure improvements to support the development.

Development in the Alice Griffith district of Candlestick Point (“CP”) would include up to 1,210 new homes on approximately 20 net acres and include redevelopment of the San Francisco Housing Authority (“SFHA”) Alice Griffith public housing site along with development of adjacent non-SFHA property. Housing would include one-for-one replacement of 256 public housing units currently on the site, and 954 market-rate and below-market for-sale and rental units. Redevelopment of the Alice Griffith public housing site would proceed in phases and

would not displace existing residents. The initial phases would develop current vacant portions of the Alice Griffith district, and existing residents would then occupy public housing replacement units before demolition of existing structures in subsequent phases.

The Project analyzed in the Draft EIR proposed demolishing Buildings 208, 211, 224, 231, and 253 at HPS. These buildings are identified in the Draft EIR as potential historic resources. Building 208 would now be retained, but would not be occupied. The retention of Building 208 would reduce the severity of the historic resources impact and slightly reduce the construction-related impacts of the Project as described in the Draft EIR, as less building area would be demolished. Because the land use plan would not be changed, this refinement would not result in new significant impacts or an increase in the severity of impacts, as described in Section F of the C&R.

The C&R also adds a refined development schedule for the proposed Project due recent economic forecasts, as well as updated entitlement, Navy transfer, and permitting schedules. Site preparation activities, including demolition and infrastructure construction, would begin one to two years later than originally planned, and the completion of building construction has been extended from 2029 to 2031, with full occupancy by 2032. Full build-out of HPS Phase II would occur by 2027 and full build-out of CP would occur in 2031, with final occupancy in 2032. Total development remains the same as identified in the Draft EIR.

The updated development schedule takes advantage of recent market analyses to refine the Project housing program and provide a steady, deliberate buildup of research and development space. As with the original development schedule, the updated development schedule jump-starts the housing program with the construction of over 3,000 homes in the first phase. The current schedule then provides for the construction of 2,000, 2,500, and 2,800 homes over the following three phases, respectively.

Similarly, research and development space is now anticipated to steadily build over each of the first three development phases, whereas the original schedule front-loaded over 2,275,000 sf of research and development construction in the first phase of development.

Variants to the Proposed Project

Following are the Variants to the proposed Project that are included in the EIR:

- Variant 1: San Francisco 49ers move outside the project area (no football stadium constructed at HPS Phase II)—Research and Development Variant
- Variant 2: San Francisco 49ers move outside the project area (no football stadium constructed at HPS Phase II)—Housing Variant
 - Sub-variant 2A: San Francisco 49ers move outside the project area (no football stadium constructed at HPS Phase II)—Housing/Research and Development Variant
- Variants 3A, 3B, 3C, and 3D: The Tower Variants would have the same land use program and overall description as with the Project, but would have different locations and heights for residential towers at Candlestick Point. Tower Variant 3D would also increase tower floor plates.

- Variant 4: A Utilities Variant would include an automated solid waste collection system, decentralized wastewater treatment, and district energy.
- Variant 5: A shared stadium where both the San Francisco 49ers and Oakland Raiders would play at the stadium at HPS Phase II.

The Draft EIR included five variants to the proposed Project, which were also evaluated at a project level. Two variants address the scenario of the San Francisco 49ers moving to the City of Santa Clara with no football stadium constructed at HPS Phase II. Those two variants include a different land use program at the HPS Phase II site. Compared to the Project, the development program of these variants at HPS Phase II would include increases in R&D space with the No Stadium-Additional Research and Development Variant (R&D Variant) and relocating residential units from CP to HPS Phase II with the No Stadium-Housing Variant (Housing Variant).

The third variant, would have the same land use program and overall description as the Project, but would have different locations and heights for residential towers at CP. The Draft EIR included three options for this variant (Tower Variants A, B, and C).

The fourth variant, the Utilities Variant, would include an automated solid waste collection system, decentralized wastewater treatment, and district energy.

The fifth variant, the Shared Stadium Variant, would include the scenario of a shared stadium with both the 49ers and Oakland Raiders playing at a new stadium at HPS Phase II.

Most of the features of the variants would be similar to the features of the Project. All variants would be consistent with the Project Objectives, which are provided in detail in Chapter II of the Draft EIR. Any of the variants of the Project either individually or in combination with elements of the Project could be approved by City decision-makers. The variants are analyzed at a project level of detail, which is equal to the Project analysis.

The C&R added a Housing/R&D sub-variant to the Housing Variant that adds an additional amount of R&D space (500,000 square feet) at the stadium site at HPS Phase II. Also, 275 residential units would be relocated from the Jamestown district of CP to HPS Phase II and another 50 residential units would be redistributed from the Jamestown district to elsewhere within CP.

Since publication of the Draft EIR, the Design for Development documents have been refined to encourage certain locations for towers based on a variety of tower location principles, such as clustering towers near the center of the development, formation of skylines, adjacency to transit stops, reducing shadow impacts, maintaining view corridors, and limiting adverse wind effects. Accordingly, the C&R includes Tower Variant D, which is a fourth option for the residential towers at CP that is based on height, bulk, and massing requirements for vertical development within the Project site as described in the Design For Development. Tower Variant D also includes a 12,500-square-foot maximum floor plate for high-rise towers, in place of the 10,500-square-foot maximum floor plate for the towers analyzed in the Draft EIR. The larger floor plate of Tower Variant D would enable greater efficiency and flexibility in design of floor plans but

would not change the proposed size of the podiums analyzed in the Draft EIR. Therefore, the overall “footprint” of the towers would remain the same, and the amount of impermeable surface would not be increased. The total number of dwelling units proposed with the Project would not change.

The Housing/R&D sub-variant and Tower Variant D have been analyzed in the C&R and determined to not result in any new significant environmental impact or an increase in the severity of any impact identified in the Draft EIR.

Alternatives to the Proposed Project

Following are the alternatives to the Project:

- Alternative 1: No Project
- Alternative 2: CP-HPS Phase II Development, HPS Phase II Stadium, State Parks Agreement, and without the Yosemite Slough Bridge
- Alternative 3: Reduced CP-HPS Phase II Development, San Francisco 49ers Stay at Existing Candlestick Park Stadium, with Limited State Parks Agreement, and Yosemite Slough Bridge Serving Only Transit, Bicycles, and Pedestrians
- Alternative 4: Reduced CP-HPS Phase II Development, Historic Preservation, No HPS Phase II Stadium, Marina, or Yosemite Slough Bridge
 - Subalternative 4A: CP-HPS Phase II Development Plan with Historic Preservation
- Alternative 5: Reduced CP-HPS Phase II Development, No HPS Phase II Stadium, No State Parks Agreement, and Without the Yosemite Slough Bridge

Five alternatives, including the No Project Alternative, were included in the Draft EIR. Aside from the No Project Alternative, four alternatives were selected because they could reduce one or more of the significant impacts of the Project, while meeting Project objectives. Each alternative differs from the Project in one or more of the following ways:

1. In the treatment of the Yosemite Slough bridge, either by changing the design or removing the bridge proposal from the project and substituting an alternative transportation component
2. In the intensity of development
3. In the location and type of land uses
4. In the treatment of the Candlestick Point State Recreation Area (CPSRA), either by changing the reconfiguration proposed or removing the CPSRA from the project
5. In the treatment of the 49ers Stadium, either by changing the location of the Stadium or removing the Stadium from the project

Alternative 1, the No Project Alternative, is required by CEQA, and assumes that no new development would occur at CP and that HPS Phase II would be developed with new uses consistent with the existing HPS Redevelopment Plan.

Alternative 2 would have the same land use program proposed with the Project, including the State Parks agreement but would not include the Yosemite Slough bridge.

Alternative 3 would be a reduced development alternative. Total housing with this alternative would be 5,210 units, about half of the units proposed with the Project. At Candlestick Point, residential development would be decreased and retail and arena uses would not be developed. Replacement of the Alice Griffith Public Housing site would occur and consist of 1,210 housing units. Minor improvements would be made to the CPSRA under the Limited State Parks Agreement. At HPS Phase II, housing would be increased; other uses at HPS Phase II would be similar to the Project. A new Yosemite Slough bridge would serve only transit, bike, and pedestrian traffic and would not be used for 49er games, which would continue to be held at the existing Candlestick Park stadium. There would be no new stadium at HPS Phase II.

Alternative 4 would also be a reduced development alternative. Total housing with this alternative would be 7,350 units, about 30 percent less than proposed with the Project. The proposed floor areas for most uses would be approximately 30 percent smaller at full build-out in comparison to build-out of the Project. This alternative includes preservation of four potentially historic structures at HPS Phase II. The C&R corrects a typographical error in the Draft EIR that listed three buildings to be preserved rather than four buildings. No Yosemite Slough bridge, stadium, or marina would be built. The State Parks agreement would occur.

Alternative 5 would be a third reduced development alternative that would have the same land use program proposed with the Project, except that the new stadium at HPS Phase II and the Yosemite Slough bridge would not be constructed and the 49ers would continue to utilize Candlestick Park. The total number of housing units would be the same as for the Project; however, because this alternative would not include the CPSRA boundary reconfiguration, the land area available for development would be smaller. Approximately 1,350 units would be shifted from Candlestick Point to HPS Phase II. This alternative assumes a State Parks agreement does not occur and there is no agreement with the 49ers for a stadium at the Project site.

The C&R includes a sub-alternative to Alternative 4 that includes historic preservation while keeping all other Project components the same. In addition to retaining Building 208 as described above for the proposed Project, this sub-alternative would preserve Buildings 211, 224, 231, and 253 (i.e., all five historically eligible structures identified in the Draft EIR). The potential environmental effects of the historic preservation component of Alternative 4 would not change regardless of whether that element is combined with a variant, another alternative, or the Project. Subalternative 4A is not a substantially different alternative, but one that combines the Project's development plan with preservation of the historically eligible buildings, both of which were analyzed in the Draft EIR. Similar to Alternative 4, Subalternative 4A would retain the four historic buildings (Buildings 211, 224, 231, and 253) that would otherwise be demolished under the Project. In order to accommodate the historic preservation component in the Project's development plan, some adjustments in the location and intensity of some of the Project's land uses and a more cost-effective approach for providing sea level rise protection for the historic resources area have been included in this sub-alternative. In all other respects, Subalternative 4A assumes a development plan that is identical to the Project.

CEQA Process

Agency and Planning Department staff published a Notice of Preparation of an EIR (“NOP”) on September 1, 2007. This initiated a 30-day public review period for the NOP. The NOP was distributed to responsible or trustee agencies and sent to organizations, companies, and/or individuals that the Agency and the City believed might have an interest in the Project. In response to the NOP, nine comment letters were submitted to the City by public agencies, organizations, and individuals.

In addition to the written comments, the Agency and the Planning Department held two public scoping meetings for the EIR, on September 17, 2007, and September 25, 2007. The scoping meetings provided the public and affected governmental agencies with an opportunity to present environmental concerns regarding the Project.

The Draft EIR for the was published and distributed on November 12, 2009, for review and comment to the public, other interested parties, agencies that commented on the NOP, and surrounding jurisdictions for a 45-day public review period that was to conclude on December 28, 2009. However, at the Agency Commission public hearing conducted on December 15, 2009, the Commission voted to extend the comment period to January 12, 2010 (60-day public review period), and scheduled a second public hearing on the Project for January 5, 2010. At its meeting on December 17, 2009, the Planning Commission concurred with the Agency Commission’s decision to extend the comment period.

The Draft EIR was circulated to State agencies for review through the State Clearinghouse. In addition, the Draft EIR was also circulated to federal, regional, or local agencies that have discretionary authority over some aspect of the Project, as well as organizations or individuals that requested a copy of the Draft EIR or those who might have an interest in the Project. Copies of the Draft EIR were also available for public review during normal business hours at the Agency and Planning Department. The EIR was also posted for public review at the Agency and Planning Department websites.

Approximately 115 comment letters were received on the Draft EIR and approximately 150 individuals spoke at the three public hearings that were held on the Draft EIR between December 2009 and January 2010. As further required by CEQA, written responses have been provided in the C&R document for all substantive comments. The C&R was published on May 13, 2010. The comment letters and public hearing transcripts, and the responses to the comments comprise three-fourths of Volumes VII, VIII, and IX of the C&R document.

The C&R document also includes text changes to the Draft EIR. The text changes either clarify information or make minor changes and corrections to the document. This chapter of the document repeats text changes specified in the responses to comments, which added to the bulk of the document but enables the reader to easily review all document changes organized in the order of the Draft EIR chapters. Other changes were due to refinements to the Project, many of which have been prompted in response to comments received on the Draft EIR.

Commission Action

The Agency and Planning Commissions will consider certification of the Final EIR, consisting of the Draft EIR and the C&R, on June 3, 2010. Certification of the Final EIR is not an action to approve the project itself, but just a decision on the Final EIR document. The certification action before the Commission is a statement that the Agency hereby does find that the Final Environmental Impact Report reflects the independent judgment and analysis of the Agency, is adequate, accurate and objective, that it has been completed in compliance with CEQA, and that the Comments and Responses document contains no significant revisions to the Draft EIR.

The Agency, in certifying the completion of the Final EIR, finds the project described in the EIR to have the following potential unavoidable significant environmental impacts that could not be mitigated to a less than significant level:

Project and cumulative construction impacts

- Effect of project construction on vehicle traffic and roadway construction on transportation system (Impact TR-1).
- Groundborne vibration impacts from construction (Impact NO-2).
- Cumulative contribution to vibration effects during construction activities.
- Increase in ambient noise levels from construction (Impact NO-3).
- Cumulative contribution to noise from construction activities.
- Cumulative contribution to pile-driving activities.
- Impacts to Historic Resources from Construction Activities (Impact CP-1b).
- Cumulative contribution to impacts on historic resources.

Project and cumulative traffic impacts

- Traffic Volumes (Impact TR-2, TR-10).
- Traffic at Intersections (Impact TR-3, TR-4, TR-5, TR-7, TR-8).
- Traffic at Freeway Ramps (Impact TR-6).

Project and cumulative freeway traffic impacts

- Traffic at freeway segments (Impact TR-11, TR-15).
- Traffic at freeway ramps (Impact TR-12, TR-13, TR-14).

Project and cumulative transit impacts

- Traffic impacts on MUNI lines (Impact TR-21, TR-22, TR-23, TR-24, TR-25, TR-26, TR-26, TR-28).
- Traffic impacts to SamTrans bus lines (Impact TR-30).

Project bicycle impact

- Traffic impacts to bicycle routes (Impact TR-32).

Event traffic impacts

- 49ers game site access and traffic impacts (Impact TR-38).
- Stadium secondary event site access and traffic impacts (Impact TR-46).
- Project site access and traffic impacts from arena uses (Impact TR-51).

Event transit impacts

- Stadium 49er game transit impacts (Impact TR-39).

- Stadium secondary event transit impacts (Impact TR-47).
- Transit impacts from arena uses (Impact TR-52).

Project and cumulative air quality impacts

- Criteria pollutants from project operations (Impact AQ-4).
- Cumulative contribution of criteria pollutants from project operation,
- Cumulative contribution to TAC and PM_{2.5} impact under the proposed Bay Area Air Quality Management District CEQA Guidelines.

Project and cumulative noise impacts

- Noise impacts from project traffic (Impact NO-6).
- Cumulative contribution to traffic noise levels.
- Noise impacts from stadium events (Impact NO-7).
- Cumulative contribution to ambient noise during stadium events.

Cumulative police services impact

- Cumulative contribution to demand for police services.

Future actions on the proposed Project are scheduled for consideration by the Agency and Planning Commissions at the meeting on June 3, 2010. The Commissions will also be asked to consider adoption of environmental findings pursuant to CEQA, including findings related to the mitigation measures and alternatives discussed in the Final EIR, a Statement of Overriding Considerations that explains how the benefits of the Program outweigh the unavoidable significant environmental impacts identified in the Final EIR, and a Mitigation Monitoring and Reporting Program that sets for the implementation mechanism for mitigation measures that are found to be feasible.

Originated by Stanley Muraoka, Environmental Review Officer

Fred Blackwell
Executive Director



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

EIR Certification Appeal

Candlestick Point-Hunters Point Shipyard Phase II FEIR

DATE: July 6, 2010
TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Bill Wycko, Environmental Review Officer – (415) 575-9048
Joy Navarrete, Case Planner – Planning Department (415) 575-9040
RE: BOS File No. 10-0861 [Planning Case No. 2007.0946E]
Appeal of Environmental Impact Report Candlestick Point-Hunters Point Shipyard Phase II
HEARING DATE: July 13, 2010
ATTACHMENTS: A. Planning Commission Motion No. 18086 (Certifying FEIR)
B. Memo to Planning Commission from Lisa Gibson May 20, 2010 and
Memo to Redevelopment Commission from Fred Blackwell June 3, 2010
C. Appeal Letters

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PROJECT SPONSOR: Lennar Urban, on behalf of CP Development Company LP
APPELLANTS: No. 1: Golden Gate Audubon Society, California Native Plant Society
Yerba Buena Chapter, Sierra Club San Francisco Bay Chapter,
San Francisco Tomorrow (SC)
No. 2: Law Offices of Steven Volker, representing Californians for
Renewable Energy (CARE)
No. 3: Jaron Browne, People Organized to Win Employment Rights
(POWER)
No. 4: Law Offices of James Birkelund, representing California State
Parks Foundation (CSPF)

INTRODUCTION

This memorandum and the attached documents are a response to the letters of appeal to the Board of Supervisors (the "Board") regarding the Planning Commission's certification of a Final Environmental Impact Report ("FEIR") for the proposed Candlestick Point Hunters Point Shipyard Phase II project (the "Project"), Case No. 2007.0964E, under the California Environmental Quality Act ("CEQA"). The Appeals to the Board were filed by June 23, 2010. The FEIR has been provided to the Board separately. The FEIR consists of the Draft EIR ("DEIR") and the Comments and Responses ("C&R") document.

The decision before the Board is whether to uphold the Commission's decision to certify the FEIR, or to overturn the Commission's decision to certify the FEIR and return the project to the Planning Department for additional environmental review.

SITE DESCRIPTION & PRESENT USE

The Project site is located on approximately 702 acres in the southeastern portion of San Francisco and includes both Candlestick Point and Hunter Point Shipyard Phase II (HPS). The site is bordered by major features, such as India Basin to the north; the Executive Park area and San Mateo County line to the south; Bayview Hill, the Bayview neighborhood, Yosemite Slough, and Hunters Point Hill to the west; and San Francisco Bay on the north and the east. Candlestick Point is immediately east of Executive Park, with the Bayview neighborhood to the north, HPS Phase II to the northeast, and the Candlestick Point State Recreation Area (CPSRA) along the Bay frontage generally to the east. Candlestick Point is generally bounded by Hawes Street to the northwest and Harney Way to the southwest, and the Candlestick Cove and South Basin areas of the Bay are to the south and east, respectively. HPS Phase II is located to the southeast of the Bayview Hunters Point (BVHP) neighborhood. HPS Phase II is generally bounded by San Francisco Bay to the north, east, and south. The south end of the western boundary extends from Yosemite Slough along Arellano Walker Drive to approximately Crisp Road where the boundary is adjacent to the HPS Phase I site. The northernmost end of HPS Phase II is contiguous with Earl Street.

Hunters Point Shipyard, once a United States Navy base, closed in 1974 and the Navy officially included the Shipyard on the Department of Defense's 1991 Base Realignment and Closure (BRAC) list. The base is now largely vacant, except for a few hundred artists. The Navy is undertaking environmental remediation at the Shipyard and intends to offer parcels to the Redevelopment Agency as the remediation process proceeds. In 2004 the Navy transferred Parcel A to the Redevelopment Agency, which the Agency is in the process of redeveloping.

Candlestick Point includes, among other things: (a) the City-owned stadium, currently named Candlestick Park, which is home to the San Francisco 49ers and is nearing the end of its useful life; (b) the Alice B. Griffith Housing Development, also known as Double Rock, and (c) the Candlestick Point State Recreation Area.

PROJECT DESCRIPTION

The San Francisco Redevelopment Agency ("Agency") together with CP Development Company LP (the "Project Sponsors") are proposing to assemble and redevelop the Project area with (a) 10,500 residential units, approximately 32 percent of which (3,345) will be offered at below market rates, (b) approximately 327 to 336 acres of new and improved public parks and open space, (c) 885,000 square feet of regional and neighborhood-serving retail space, (d) 255,000 square feet of new and renovated studio space for Shipyard artists, including an arts education center within a new "Arts District" supporting the vibrant artist community, (e) 2,650,000 square feet of commercial, light industrial, research and development and office space, including space for the United Nations Global Compact Center, (f) 100,000 square feet of community uses, (g) new public and community facilities on the Shipyard and Candlestick Point, (h) improved land and supporting infrastructure for a new football stadium for the San Francisco 49ers, including necessary parking areas and transportation improvements, with alternative uses that either shift some residential uses from Candlestick Point to the Shipyard and expand by up to 500,000 square feet commercial uses on some of the areas of the Shipyard currently reserved for stadium uses or

expand research and development uses by 2,500,000 square feet on the Shipyard if the 49ers do not avail themselves of the opportunity to build a new stadium on the Shipyard, (i) a 10,000 seat arena on Candlestick Point, (j) a hotel, (k) a 300 slip Marina, and (l) a bicycle and pedestrian bridge over Yosemite Slough that can be used for game day automobile travel in the event the stadium is constructed.

As reflected in the above description, the Project as approved by the Redevelopment Agency and the Planning Commission includes the Project with the stadium as described in the FEIR as well as Variant 1 (R&D Variant) or Variant 2A (Housing/R&D Variant) uses in the event that the stadium is not constructed. The Project as approved also includes Variant 3D (Tower Variant D), Variant 4 (Utilities Variant) and Variant 5 (Shared Stadium Variant). Finally, the Project as approved includes implementation of Subalternative 4A (CP-HPS Phase II Development Plan with Historic Preservation) if either Variant 1 or Variant 2A are constructed in lieu of the stadium.

The land uses that will be implemented under the Project with the stadium or, without the stadium are shown in Table A on page 4.

BACKGROUND

2007 Environmental Review Application

On August 27, 2007, Lennar Urban, on behalf of CP Development Company LP, filed Environmental Review Application No. 2007.0946E with the Planning Department (hereinafter "Department"). On January 11, 2010, the Redevelopment Agency submitted requests to the Department for General Plan Amendments, Planning Code Text Amendments and Planning Code Map Amendments in support of the Project.

2008 Notice of Preparation of an Environmental Impact Report

The Department determined that an Environmental Impact Report ("EIR") was required and on September 1, 2007, published a Notice of Preparation of an EIR and Notice of Public Scoping Meetings (hereinafter "NOP"), and provided public notice thereof by publication in a newspaper of general circulation on September 1, 2007, that solicited comments regarding the content of the proposed EIR for the Project. The Department and the Agency held public scoping meetings on September 17, 2007, and September 25, 2007 in order to receive public input regarding the proposed scope of the EIR analysis.

2009-10 Draft Environmental Impact Report

The Department published the DEIR on November 12, 2009, on which comments were accepted until January 12, 2010. The Planning Commission held a duly advertised public hearing on said DEIR on December 17, 2009, and the Agency Commission held a duly advertised public hearing on said DEIR on December 15, 2009, and January 5, 2010. Following the close of the public review and comment period, the Department prepared written responses that addressed all of the substantive written and oral comments on the DEIR, and the EIR was revised accordingly.

Table A – Comparison of Land Use Development Scenarios (Stadium and Non-Stadium Options)						
Land Use Plan Components	Project with stadium and Candlestick Tower Variant D, Utility Variant, 49ers/Raiders Shared Stadium Variant		Project without stadium, with R&D Variant, Candlestick Tower Variant D, Utility Variant		Project without stadium, with Housing/R&D Variant, Candlestick Tower Variant D, Utility Variant	
	<i>Candlestick Point</i>	<i>HPS</i>	<i>Candlestick Point</i>	<i>HPS</i>	<i>Candlestick Point</i>	<i>HPS</i>
Residential units	7,850	2,650	7,850	2,650	6,225	4,275
Office (gsf)	150,000		150,000		150,000	
Hotel (gsf)	150,000		150,000		150,000	
Research & Development (gsf)		2,500,000		5,000,000		3,000,000
Regional Retail (gsf)	635,000		635,000		635,000	
Neighborhood Retail (gsf)	125,000	125,000	125,000	125,000	125,000	125,000
Artists' Studios/Art Center (gsf)	N/A	255,000	N/A	255,000	N/A	255,000
Community Services (gsf)	50,000	50,000	50,000	50,000	50,000	50,000
Football Stadium (seats)		70,000		0		0
Arena (seats)	10,000		10,000		10,000	
Marina (slips)	N/A	300	N/A	300	N/A	300
Yosemite Slough Bridge	Auto/BRT/Ped		BRT/Ped		BRT/Ped	
Parking (spaces)	18,917		22,912		20,062	
- Residential	7,850	2,650	7,850	2,650	6,225	4,275
- Commercial	2,346	4,028	2,346	7,028	2,346	4,428
- General and Commercial (on-street)	1,360	683	1,360	1,678	1,360	1,428
Total Park & Rec Space	104.8	231.6	104.8	222.2	104.8	221.8
- New Parks	8.1	140	8.1	152.4	8.1	150.9
- Active Recreation	N/A	91.6	N/A	69.8	N/A	70.9
- State Parkland (acres)	96.7	N/A	96.7	N/A	96.7	N/A

2010 Comments & Responses Document

The Department and the Agency prepared responses to comments on environmental issues received at the public hearings and in writing during the 60-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIR. This material was presented in a C&R document, published on May 13, 2010 and mailed or otherwise delivered to the Board, all parties who commented on the DEIR, and other interested parties, and made available to others upon request at Department offices. The comments and responses did not substantially revise the DEIR and therefore no recirculation was required under the State CEQA Guidelines Section 15073.3.

2010 Environmental Impact Report Certification

On June 3, 2010, the Planning Commission and Redevelopment Commission reviewed and considered the FEIR and found that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.

CEQA GUIDELINES

The Final Environmental Impact Report (FEIR) has been prepared in accordance with the California Environmental Quality Act (CEQA), as established under the Public Resources Code 21000 et seq., the *CEQA Guidelines* (a part of the California Code of Regulations), and local CEQA procedures under Chapter 31 of the San Francisco *Administrative Code*. The purpose of this EIR is to disclose any potential impacts on the physical environment resulting from implementation of the proposed project, and allow a time for public review and comment, before decision makers decide to approve or deny the project.

APPELLANT ISSUES AND PLANNING DEPARTMENT RESPONSES

The concerns raised in the June 21-23, 2010 Appeal Letters are cited in a summary below and are followed by the Department's responses.

1. PROJECT DESCRIPTION

Concern 1.a. The project description is inadequate, because the approved project includes several options incorporating certain Variants and an Alternative, which were included in the FEIR. (CARE)

Response 1.a. The issue on appeal before the Board of Supervisors is the Planning Commission's certification of the FEIR, not the project approval actions taken by the Planning Commission. But, CEQA does not preclude approval of a Project that incorporates certain development options for certain aspects of the Project. The FEIR examines various development options and project alternatives consistent with CEQA principles and requirements that encourage informed decision making and consideration of alternatives and variants that would reduce project impacts and respond to public concerns. The FEIR does not "shift among different project descriptions" in its analysis. The primary Project is consistently and fully described and

analyzed throughout Chapter III of the FEIR. The Variants are fully described and analyzed in Chapter IV of the FEIR. The Alternatives are fully described and analyzed in Chapter VI of the FEIR. This organization fulfills the CEQA requirement for a stable Project description, which is intended to ensure that the environmental analysis of the project is accurate and complete and does not artificially limit the ability of a public agency to approve a complex project that responds to a multitude of long-term environmental and public policy goals.

The Project elements, including the Variants and Alternatives adopted as part of the Project are described in this memorandum under "Project Description."

Concern 1.b. The project description is misleading given that the 49ers have indicated that they prefer not to relocate to the Shipyard. (POWER)

Response 1.b. The Project description is not misleading. A proposal to include an option for the San Francisco 49ers to remain in San Francisco and relocate to a new stadium on the Shipyard has been part of the vision for the Shipyard for several years. (FEIR I-5). Proposition G, passed by the voters in 2008, encouraged a Project that included a new stadium on the Shipyard as an option should the 49ers and the City determine that the stadium is feasible. Proposition G also called for additional "green" office, science and technology, research and development, industrial space and housing on the Shipyard in the event a stadium is not built. A new stadium at the Shipyard remains a potential option as the 49ers have not made a final decision about the location of a new stadium.

Consequently, it is appropriate for the Project to include both a stadium and options for other development should a final decision be made in the future that a new stadium at the Shipyard is not feasible. Because both the stadium and non-stadium options are potential development scenarios for the Shipyard area designated as HPS South, CEQA requires that the FEIR analyze the potential impacts of both options. Moreover, nothing in CEQA precludes the analysis or approval of optional elements of a development plan so long as the environmental analysis of these options complies with CEQA. Thus, the FEIR properly includes the stadium in the Project description and analyzes three development variants in a non-stadium scenario: Variant 1, the R&D Variant; Variant 2, the Housing Variant; and Variant 2a, the Combined Housing, R&D variant. The Project proposed for approval allows the stadium and, in the event that a final decision is made not to proceed with the stadium, either Variant 1 or Variant 2a. Given that the final decision on the stadium is unknown at this time, this approach is appropriate.

Concern 1.c. The project site fails to include the Yosemite Slough. (CSPF)

Response 1.c. As explained in the FEIR, the Yosemite Slough is not a part of the Project site. (C&R-732-734). That the Project includes a bridge spanning one end of the slough does not mandate inclusion of the entire slough within the Project site. The Project proposes several off-site transportation improvements, including the bridge, the widening of Harney Way, and various improvements to Palou Avenue, Carroll Avenue, Ingalls Street, Innes Avenue, Gilman Avenue, and Third Street, among others. These transportation improvements, while a part of the Project and fully described and analyzed in the FEIR, are considered off-site Project elements. The slough is not part of the Project site because (1) another project proposed by other parties has been approved for the slough (i.e., the Yosemite Slough Restoration Project); (2) the Project does

not propose any improvements in the slough, except for the bridge; (3) the Project Applicant will have no interest in, control over, or management or other responsibility for the slough; and (4) proposed Candlestick Point State Recreation Area Reconfiguration, Improvement and Transfer Agreement (State Parks Agreement) does not include the slough in the property to be conveyed to the Agency and to be improved as part of this Project. Consequently, it is appropriate to characterize the bridge as an "off-site" Project element. Distinguishing between on-site and off-site Project improvements does not violate CEQA. The FEIR provides a detailed description of the bridge and its location, and provides an extensive analysis of the potential impacts associated with the bridge, including the potential impacts on the slough and the proposed restoration project. In fact, as required by CEQA, every section of the FEIR describes the Project's potential impacts on the areas surrounding the Project site as well as the potential impacts that would occur on the Project site. In this way, the FEIR fulfills the CEQA mandate to inform the decision-makers and the public of the Project's environmental consequences, wherever those consequences occur, whether on-site or off-site.

The State Parks Agreement approved by the Redevelopment Agency recognizes the Yosemite Slough Restoration Project as a joint project of the California State Parks Foundation and State Parks and includes provisions to ensure that the design and construction of the Bridge is coordinated with the implementation of the Restoration Project so that design elements of the Bridge are consistent with the objectives of the Restoration Project.

2. TRAFFIC AND TRANSPORTATION

Concern 2.a. The FEIR fails to adequately analyze an alternative Bus Rapid Transit (BRT) route around Yosemite Slough. (SC)

Response 2.a. An alternative bus rapid transit route around Yosemite Slough was analyzed in the FEIR. Alternative 2 analyzed the impacts of a no-bridge scenario with the stadium at a similar development intensity as the Project with a portion of the BRT route generally following the route along an abandoned Navy railroad right-of-way (C&R-1394-98, Response to Comment [RTC] 82-27 through 82-30). It was concluded that because this route would require a number of right angle turns and additional signalized intersections, it would not provide a comparably direct route as compared to the route provided across the bridge. Alternatives 4 and 5 examined alternative development scenarios, one with a reduced development envelope compared to the Project and the other with the same development program, but different distribution of uses, as the Project, both without a stadium and without the inclusion of the Yosemite Slough bridge

As discussed in detail in Master Response 4 (C&R-57-67), a no-bridge scenario would not meet three key Project and Proposition G objectives: (1) to provide automobile, public transportation, and pedestrian connections between the Shipyard and Candlestick Point; (2) to create an appealing walkable urban environment served by transit; and (3) to provide the necessary transportation infrastructure, including automobile, public transit and pedestrian connections between Candlestick Point, the Hunters Point Shipyard, and the larger neighborhood to facilitate the handling of game day traffic in conjunction with the proposed new 49ers stadium.

Due to geography, topography, and the current condition of infrastructure, Candlestick Point and the Hunters Point Shipyard are comparatively isolated from the transit and roadway

networks serving the City and region, and are not easily accessible by pedestrians and bicyclists. These deficiencies have been identified as top community concerns during the extensive local and citywide planning efforts for the Project and across southeastern San Francisco. (C&R-55-56.) As part of the City's transportation goals and plans, and to serve the increased travel demands from the Project, a new BRT network has been proposed. BRT service generally provides faster more reliable service than traditional local bus routes using a variety of strategies to reduce conflicts with other vehicles. (C&R-56.) For the Project, BRT service would provide an internal link between the two Project areas, would link the Project with the surrounding developments and neighborhoods, and would connect to Caltrain, BART, the T-Third light rail, and numerous Muni bus lines. A key element of the Project's overall transportation system would involve providing the most direct route of travel for the BRT, as well as bicycles and pedestrians, between Hunters Point Shipyard, Candlestick Point, and destinations to the west. (C&R-56.) Thus, the planned BRT is a critical component in the promotion of public transit use by the Project residents, visitors, and employees consistent with the City's Transit-First policy and the Project's Transportation Plan.

Another key goal of the Project's Transportation Plan is to provide effective ingress and egress for the proposed new stadium. The NFL has stated that an essential feature of any stadium access plan is the ability to clear the stadium parking lots within an hour or less. (C&R-56.) In doing so, the City is concerned that surrounding residential area streets not be unduly affected by stadium traffic. (C&R-56.)

The FEIR concluded that the Yosemite Slough Bridge would best achieve three primary transportation functions consistent with the Project objectives and overall City goals and policies. First, the Bridge's BRT lanes allow a more direct route (approximately $\frac{2}{3}$ mile shorter) between the Project neighborhoods and to and from BART, Caltrain, Muni light rail and local buses than an alternative route around the slough. Second, the Bridge provides pedestrians and cyclists a direct connection between Hunters Point Shipyard and Candlestick Point, avoiding a diversion through or near the industrial area around Yosemite Slough, which is not well suited for other types of traffic. Third, the bridge provides automobile access between the stadium site and US-101, via a planned reconstructed interchange at Harney Way, which is the only route that can meet NFL standards for traffic egress; other routes would create substantial risks that the NFL would not approve a stadium in the area.¹

For each of these three transportation functions, the FEIR analysis determined that the Yosemite Slough Bridge would provide a superior and necessary function compared to alternatives without the bridge. (C&R-54-67.) For the BRT service, the analysis demonstrated that in terms of travel time and associated ridership, reliability, safety, operating costs, adaptability to possible future light rail, and minimizing impacts on local industrial businesses, the BRT route across the Yosemite Slough Bridge would be substantially superior to alternative routes around the Slough and would provide a quality of service associated with bus rapid transit. (C&R-57-61.) Based on these findings, SFMTA has stated that the additional travel time, cost, reduced ridership, and

¹ Letter from Neil Glat, Senior Vice President, National Football League, to Stanley Muraoka, Environmental Review Officer, San Francisco Redevelopment Agency, January 12, 2009.

overall effect on route reliability associated with a route around the Slough would likely affect Muni's ability to operate the service to the Hunters Point Shipyard. (C&R-61.)

To evaluate accommodating game day traffic, the analysis examined two alternative egress routes without a bridge and concluded that: (1) Alternative Route 1 would have a stadium exit capacity substantially below what would be necessary to accommodate a new NFL stadium at the Shipyard; and (2) Alternative Route 2 would closely approximate the required egress clearance capacity, but would have negative drawbacks, including elimination of BRT service from the Balboa Park BART station and the Bayshore Caltrain Station and serious conflicts with the operation of the T-third light rail service. (C&R-62-66.) These drawbacks would conflict with the City's Transit-First policy.

The bridge would enable walking and cycling between Candlestick Point and the Hunters Point Shipyard, thereby enhancing the connection between these two Project areas and reducing automobile use and the demand for parking. Without the bridge, walking and cycling distance between the center of Candlestick Point and the center of Hunter Point Shipyard would increase by 2/3 mile or 50 percent compared to conditions with the bridge. Without the bridge, pedestrians and cyclists would travel through an industrial area with heavy truck traffic, several intersections, and few amenities. Some of these differences may be reduced with the construction of the Bay Trail around Yosemite Slough. The trail, however, would be open only during park hours from 8:00 A.M. to sunset. The bridge lighting would provide security in the evening hours, when recreational fields at the Shipyard would be in use. (C&R-66-67.)

In addition, the Candlestick Point State Recreation Area Reconfiguration, Improvement and Transfer Agreement provides that the bridge will serve as a part of the open space network. The bridge would be required to function primarily for public transit, bicycle, and pedestrian use, and would be closed to private motor vehicle traffic except on days when football games are held at the stadium on the Shipyard. Without the bridge, the unique recreational and viewing benefits provided for pedestrians and cyclists using the bridge would not occur.

Concern 2.b. The FEIR fails to adequately address impacts to eight MUNI lines, which would increase transit times, increase delays during peak hours, potentially dissuade ridership, and/or require increased service, buses, or drivers. (SC)

Response 2.b. The commenter does not specify to what eight MUNI lines it refers. Pages III.D-12 through -15 of Section III.D (Transportation) of the EIR contain descriptions of all MUNI lines that service the Project area. Fourteen separate MUNI lines were identified. Impacts of the Project on each of these lines and on regional transit were comprehensively analyzed in Section III.D of the EIR. (Impacts TR-17 through TR-30). See also RTCs 90-3 and 43-1 through 43-20 of the C&R document.

Concern 2.c. The FEIR fails to adequately assess and mitigate the Project's traffic impacts. (POWER)

Response 2.c. Other than a bullet point on the first page of the appeal letter, this comment appears to incorporate comments made in prior comment letters dated June 12, 2010 from POWER, to which responses were provided in the C&R. See RTCS 50-1 through 50-37. No new comments have been provided with regard to traffic impacts.

Concern 2.d. The FEIR does not provide substantial evidence to justify construction of the bridge, particularly if the stadium is not built. (CSPF)

Response 2.d. Please see response 2.a.

Concern 2.e. The FEIR fails to analyze the impacts of cars on the bridge other than on game-day. (CSPF)

Response 2.e. The State Parks Agreement provides that cars will not be allowed on the bridge except for 20 days per year (to accommodate National Football League traffic). In addition, as explained in Response to Comment 17-1 the use of the bridge is in the legislative control of the Board of Supervisors (Board), and prior to the City's acceptance of the bridge, the Agency and City staff intend to request that the Board restrict use of the bridge by designating the bridge as a public right-of-way for transit only, except as specified in the State Parks Agreement. The Infrastructure Plan, which is part of the Interagency Cooperation Agreement and is pending before the Board, requires a bridge design that controls access.

3. AESTHETICS

Concern 3.a. The FEIR does not respond to the comments on the FEIR regarding the aesthetic impacts of the bridge on the Yosemite Slough and the Candlestick Point State Recreation Area (CPSRA), especially the impact to scenic resources, scenic vistas and the visual character and quality of Yosemite Slough. (CSPF)

Response 3.a. The FEIR fully responds to the comments on the DEIR regarding the aesthetic impacts of the bridge on the Yosemite Slough and the surrounding area, including the CPSRA. Moreover, the FEIR thoroughly analyzes the potential for significant aesthetic impacts from the overall Project, including the bridge. The following discussion summarizes the information, evidence, and analysis included in the FEIR demonstrating that the bridge would not result in any significant adverse aesthetic impacts based on the applicable thresholds of significance.

Overview of Analysis: The FEIR includes the 82-page Section III.E (Aesthetics), analyzing the Project's potential impacts on scenic resources, scenic vistas, and visual character. Yosemite Slough, the Bay, and the CPSRA shoreline are described in the setting section and are acknowledged as scenic resources in the Project area. (EIR pages III.E-2, -3, and -12). The FEIR specifically describes the existing slough and Candlestick Point shoreline conditions (EIR page III.E-13) and includes photographs depicting these existing conditions (EIR Figures III.E-8 and -9). Twenty viewpoints are analyzed in the FEIR (EIR Figure E-10), including views from CPSRA (Views 9, 11, 13, 14 and 17 in Figures III.E-19, -21, -23, -24, and -27) and three views of the bridge from the open space around Yosemite Slough (Views in Views 10, 14, and 16 in Figures III.E-20, -24, and -26). In response to comments on the DEIR from CSPF, four additional viewpoints of the bridge from the area around the slough are included in the Comments and Responses, for a total of seven viewpoints in the FEIR showing the bridge. See Response to Comment 47-47, pages C&R-772 to 775 with C&R Figures 10, 11, 12, and 13. The FEIR uses this information to evaluate the potential for the Project, including the bridge, to have a substantial adverse impact on scenic vistas, cause substantial damage to scenic resources, or cause substantial degradation of the existing visual character or quality of the Project site and its surroundings.

Potential for Substantial Adverse Impact on Scenic Vistas: As shown in the FEIR, the bridge would not be prominent in any panoramic views of the site and would not obstruct, alter, or degrade the

quality of these scenic vistas. (EIR pages III.E-53 to -57) Views of the Bay and the slough would be retained from numerous vantage points, including from the shoreline, from view corridors within the Project site, and from certain areas in CPSRA. Additionally, new scenic vistas would be available from the bridge and from the substantial improvements to the CPSRA, which will enhance the public accessibility of the shoreline and provide greater opportunities for the public to take advantage of the scenic resources at CPSRA and the Bay (Response to Comment 31-14, pages C&R-351 to 352; Response to Comment 47-76, page C&R-789).

Potential for Substantial Damage to Scenic Resources: The FEIR acknowledges that the bridge would change the appearance of a portion of the slough and would replace views of open water from some locations around the slough. (EIR page III.E-58) Because the slough would continue to be a prominent scenic resource surrounded by open space and visible from many locations, the FEIR concludes that the bridge would not cause substantial damage to this scenic resource (See Figures III.E-20, 24, and 26; see C&R Figures 10, 11, 12, and 13). Additionally, the bridge has a low profile design with green design elements and would be integrated into the open space on either side of the slough. Moreover, the Project, including the bridge, would improve access to the CPSRA allowing a greater number of people to take advantage of the scenic resources along the CPSRA shoreline and the slough (page C&R-351). The Project's proposed shoreline improvements (e.g., debris removal, marsh plantings) would improve the aesthetic quality of the shoreline along Candlestick Point, thereby benefiting this scenic resource (EIR page III.E-58).

Potential for Substantial Degradation of the Existing Visual Character: Inclusion of a bridge in a natural setting does not inherently degrade the character or quality of the setting or substantially block views. Both the slough and the CPSRA shoreline would continue to be prominent features in the area available for viewing from many locations. The bridge would cross a relatively narrow portion of the slough and its small footprint relative to the remainder of the slough would not constitute a substantial degradation of the overall visual character of the slough. Except for the bridge route, the slough would remain visible as an open space and open water area (EIR page III.E-64). Additionally, the CPSRA shoreline would be substantially improved, including enhanced access to the shoreline. The bridge has been designed with a low profile that would not protrude significantly above grade. Views of the slough and the Bay would be offered from the bridge, as well as from the improved shoreline areas included as part of the Project, which would provide viewing opportunities not currently available (page C&R-351). Traffic along the bridge would interrupt views of the Bay only from certain vantage points along the slough. Interruptions in views from operation of Bus Rapid Transit (BRT) vehicles would occur intermittently for brief periods of time. Automobile traffic on the bridge would be restricted to game days (page C&R-352). Pedestrians and cyclists would be able to take advantage of the views from the bridge and these users would not represent significant, permanent obstructions to Bay views from the slough. Given these factors, the bridge would not substantially degrade the visual character of the Project site and vicinity.

Thus, the FEIR fully considers the potential aesthetic impacts of the bridge on scenic vistas, scenic resources, and the visual character and quality of the Project area including the Yosemite Slough.

4. AIR QUALITY

Concern 4.a. The FEIR underestimates the extent to which the Project exceeds air quality standards, because it fails to consider the cumulative traffic increases on Highway 101 and Interstate 280 that will force more traffic onto surface street. (SC)

Response 4.a. The air quality analysis reflects conditions in the traffic report and, therefore, considers all traffic changes on local streets resulting from congestion on Highway 101 and Interstate 280 to the same extent that these traffic changes are considered in the traffic analysis. The traffic analysis evaluates future year 2030 No Project conditions via a two-step process that utilized (1) the San Francisco County's travel demand model (SF-CHAMP) to determine background traffic growth on study area roadways, and (2) traffic volume overlays to reflect traffic volume turning movement increases associated with nearby developments that are not fully reflected in the SF-CHAMP model output. The SF-CHAMP model forecasts both the amount of new traffic associated with new regional development and the routes that this traffic is likely to use. The routes are determined by comparing relative travel times, which include increases in travel time due to congestion. The propensity for traffic to divert from regional freeways, including US 101 and I-280, onto local streets because of congestion on the freeways is accounted for in the traffic forecasts. Because the air quality analysis for mobile emissions is based on the cumulative traffic modeling of the traffic study, the air quality analysis includes an analysis of emissions from cumulative traffic increases on Highway 101 and Interstate 280, as well as the surrounding streets.

5. NOISE AND VIBRATION

Concern 5.a. The FEIR does not adequately analyze noise and vibration impacts on park users. (CSPF)

Response 5.a. The City of San Francisco General Plan's "Land Use Compatibility Chart for Community Noise" indicates that new construction of parks should generally not be undertaken in areas where ambient noise levels exceed 75 dBA. As shown in the Draft EIR and further explained in Response to Comment 47-41, implementation of the project would result in an increase in 24-hour noise levels to the areas adjacent to the CPSRA; however, the future ambient noise levels are estimated to be well below the 70 dBA noise exposure that is considered satisfactory by the General Plan.

Under CEQA, noise-sensitive receptors are generally considered to be those individuals for whom a long-term exposure to excessive noise could be detrimental to their health or welfare. Uses with noise-sensitive receptors in San Francisco are considered to be uses such as residences, schools, hospitals, and rest homes. This definition of noise-sensitive receptors is consistent with Federal Transit Administration (FTA) Impact Criteria for Noise-Sensitive Uses, which identifies noise-sensitive uses based on nighttime sensitivity to noise and the need to avoid interference with certain activities such as speech, meditation, and concentration on reading material (FEIR Table III.I-9). Consequently, park users are not considered noise-sensitive receptors for the purpose of a CEQA analysis. CEQA does not mandate the use of the World Health Organization (WHO) thresholds for noise impacts to recreational users. The Project's construction and operational noise and vibration impacts are identified in the FEIR Chapter I.

6. CULTURAL RESOURCES

Concern 6.a. The FEIR fails to adequately protect historic Ohlone sites. (POWER)

Response 6.a. The FEIR includes an extensive analysis of potential cultural resource impacts related to Native American sites and extensive mitigation measures designed to reduce any potential impacts to a less than significant level. (FEIR III.J) The FEIR describes the potential occurrence of Native American sites within the Project boundaries. (FEIR III.J-2-4) The FEIR identifies the expected archaeological sites located in, or within a quarter-mile of, the Project site. (DEIR III.J-17-19) Potential significant archaeological impacts, including impacts to Native American resources, are identified in the FEIR (Impacts CP-2a, 2b, 2c; FEIR III.J-36-41). Mitigation Measure CP-2a provides for an extensive mitigation program, including archaeological testing to identify resources that could be affected by the Project, archaeological monitoring during construction activities that have the potential to affect resources, and data recovery pursuant to an Archaeological Data Recovery Plan. The mitigation program must be implemented in accordance with the requirements of the Project Archaeological Research Design and Treatment Plan, the specific requirements of MM CP-2a, and the direction of the City's Environmental Review Officer. (FEIR III.J-36-39) Additionally, MM CP-2a includes provisions for the treatment of human remains and associated or unassociated funerary objects in compliance with all applicable state and federal laws, including notification of the Coroner and, if the remains are determined to be Native American, the California State Native American Heritage Commission, which shall appoint a Most Likely Descendant to participate in determining the treatment of the human remains and funerary objects. Consequently, this mitigation measure will ensure that an archaeological testing program will be performed, construction monitoring undertaken, and any discovered resources appropriately handled and documented.

Additionally, Master Response 1 in the Comments and Responses describes the City's February 19, 2010 meeting with Native American/Ohlone representatives who responded to the Planning Department's January 26, 2010 offer of consultation. At the meeting, the parties agreed to certain actions: (1) allowing time for representatives from additional Native American groups to respond to the request for consultation; (2) providing more information regarding prehistoric archaeological sites to interested Ohlone representatives, to the extent permitted by law; and (3) agreeing that the parties would meet again to consult. The Planning Department did not receive any additional responses to the January 26, 2010 letter. On May 11, 2010 the Planning Department sent a follow up letter to the contact person designated by the Native American Heritage Commission (NAHC) who attended the February 19, 2010 meeting. This letter contained: (1) contact information for the Navy staff; (2) the notice of the June 3, 2010 joint meeting of the Planning Commission and Redevelopment Agency Commission; (3) added language proposed by the department to be included in the Candlestick Point Subarea Plan and Hunters Point Area Plan related to the treatment of archeological resources and (4) a request for availability to meet again and continue the consultation efforts. In late May 2010, an individual, who attended the February 19, 2010 meeting, contacted the Planning Department to inquire about the status of consultation efforts. This individual is not listed as a designated Native American contact by NAHC; however, Planning staff forwarded him a copy of the May 11, 2010 letter for his information. Since that time, the Planning Department has continued to meet and

communicate with Native American groups regarding a process for addressing their issues pertaining to the site during development activities.

Having received no response from the official Native American contact to the May 11, 2010 letter, on June 15, 2010 the Planning Department sent a follow up letter to the contact individual restating the offer to continue consultation discussions. A copy of this letter was also provided to two other Native American individuals pursuant to the request of Randall Dean, Archeological Planner for the Department.

As of the date of this Report, the Department has received no response to either the May 11, 2010 or June 15, 2010 letters offering to continue consultation efforts.

7. HAZARDOUS MATERIALS

Concern 7.a. The FEIR fails to adequately assess impacts resulting from the landfill cap on Parcel E-2. (SC)

Response 7.a. As explained in the FEIR in Section III.K Hazards and Hazardous Materials, all of the property at the Hunters Point Shipyard that remains in Navy ownership is subject to the requirements of the Comprehensive Environmental Remediation Compensation and Liability Act (CERCLA), both because all federal property is subject to Section 120 of CERCLA, which requires that federal property meet certain conditions before it is transferred out of federal ownership, and because the Shipyard is a listed superfund site under CERCLA. To guide the remediation of the Shipyard, the Navy has entered into a Federal Facilities Agreement (FFA) with U.S. EPA, and Cal-EPA (through the Department of Toxic Substances Control (DTSC) and the San Francisco Bay Regional Water Quality Control Board (SFRWQCB)). The FFA establishes a schedule and process for regulatory oversight of the remediation and public participation in the remediation process. Section 120 of CERCLA precludes the Navy from transferring the property at the Shipyard to another party until the property either has been remediated sufficient to protect human health and the environment given the intended future uses, or, the Administrator of U.S. EPA and the Governor of the State of California determine that the transfer of property before it is completely remediated will not result in an unacceptable risk to human health and the environment. See also FEIR Master Response 9, Status of the CERCLA Process (C&R-107).

Given the stringent and complex legal requirements that apply at the Shipyard, the FEIR necessarily takes into account this regulatory structure in determining any possible impacts that could occur from the Project. In regards to Hazardous Materials, the impacts that could occur from the Project are those impacts that could occur during the development and use of the Shipyard property for the Project. The FEIR thoroughly examines all impacts that could occur at Parcel E-2 from exposure to hazardous materials. It specifically identifies that to the extent the Shipyard property contains hazardous materials at the time of construction activities, these construction activities could disturb contaminated soil and groundwater and that activity could result in significant impacts to workers, occupants and visitors if controls are not in place to manage the risks from such exposure. See FEIR, Section III.K at pages 53 through 109. Further, the FEIR recognizes that even after Project construction is complete, ongoing actions that might

result in disturbance of subsurface areas containing residual hazardous materials could impact residents and visitors to the Shipyard. See FEIR, Section III.K at pages 110 and 111.

No decision has been made by the Navy and regulators overseeing the CERCLA remediation as to the condition under which the regulators will authorize the Navy to transfer the property at Parcel E-2. A landfill cap may be part of the remedial solution for a portion of this parcel of the Shipyard but a landfill cap is not the only solution under consideration under the CERCLA process. Further, other partial remedial solutions already have been implemented and are continuing to be implemented at Parcel E-2, as explained in the FEIR Master Response 11, Parcel E-2 Landfill (C&R-117). Remedial actions that have been taken at Parcel E-2 include:

- From the Metal Slag area, removal of 8,200 cubic yards of soil, metal slag and debris, including 74 cubic yards of low-level radioactive waste, 32 radiological devices, 15 cubic yards of radiological debris (primarily fire bricks) and 30 cubic yards of metal debris.
- From the PCB Hot Spot area, removal of approximately 44,500 cubic yards of soil and debris, including 533 cubic yards of soil and fire brick debris identified as low-level radiological material, 40 radiological devices, 78 cubic yards of metal debris and 19 pieces of other radioactively contaminated debris and two drums of mixed waste.
- In a 14.5 area of Parcel E-2 containing the landfill, installation of an interim engineered cap to reduce water infiltration, stabilize surface soils and limit erosion; the interim cap also prevents future fires until a decision has been made as to a long-term remedial solution for this portion of Parcel E-2. The Navy installed a landfill gas control system that includes a subsurface gas cutoff wall, passive and active landfill gas extraction wells, and three tiers of gas monitoring probes, which are sampled monthly and results reported quarterly. In the 50 to 100 times the various probes have been sampled, there has been no detection of methane or landfill gases in the Crisp Avenue probes, indicating that the cutoff wall installed around the landfill is effective in preventing offsite migration of landfill gas including methane.

The Navy is planning on taking additional remedial actions to address remaining radiological contamination at Parcel E-2, and these include:

- Removal and remediation of the sanitary sewer, storm drain and septic sewer lines that extend into the East Adjacent Area of Parcel E-2.
- Removal and remediation of the ship-shielding berm in the Panhandle area.
- Preparation of final status surveys of the excavated subgrade of Parcel E-2 to locate and remove any radiological anomalies and backfilling with soils that meet radiological acceptance criteria.

Prior to transfer of Parcel E-2 to the Agency, the Navy will need to complete the CERCLA remedial process as the Agency does not intend to accept Parcel E-2 from the Navy until the regulators have determined that the Navy has completed remediation of Parcel E-2. In other words, the Agency will not accept Parcel E-2 as an early transfer parcel. At this point, the Navy has issued a draft final remedial investigation/feasibility study (RI/FS) for Parcel E-2. The draft

RI/FS identifies possible remedial solutions for the contamination that remains at Parcel E-2. These remedial solutions include the following options:

- Excavate all solid waste, contaminated soil and contaminated sediment from Parcel E-2; hazardous materials encountered would be screened for radionuclides, segregated, characterized and radiological material would be disposed off-site.
- Cap the solid waste landfill and excavate the solid waste, contaminated soil and contaminated sediments from the other areas of Parcel E-2; hazardous materials encountered would be screened for radionuclides, segregated, characterized and radiological material would be disposed off-site.
- Cap the solid waste landfill and excavate the solid waste, contaminated soil and contaminated sediments from the other areas of Parcel E-2; install a slurry wall along the shoreline to limit groundwater flow to the Bay; hazardous materials encountered would be screened for radionuclides, segregated, characterized and radiological material would be disposed off-site.

As summarized here, the Navy's solution for Parcel E-2 is not to simply cap the landfill area. The Navy already has removed the most hazardous materials known to be present at Parcel E-2 and will continue to remove materials at Parcel E-2 as part of its radiological remediation program.

The FEIR takes into account the possibility that the Navy may place an engineered landfill cap in a portion of Parcel E-2 in determining the kinds of impacts that could result during the redevelopment and use process. As explained in detail in Section III.K, if Parcel E-2 or any other portion of the Shipyard is transferred with residual contamination remaining, any development work done in those portions of the Shipyard will be subject to stringent restrictions that will be enforced by U.S. EPA and Cal-EPA. Although the federal regulatory process itself is designed to assure that there will be no unacceptable exposure to hazardous materials during the development and use of the property, the FEIR nevertheless, in an abundance of caution, identifies a series of mitigation measures that are layered on top of the federal regulatory process to assure that no unacceptable exposures occur as a result of the Project. The mitigation measures require that anyone who wishes to disturb any subsurface area of the Shipyard must go through a review process that will be conducted by the San Francisco Department of Public Health ("SFDPH"). This review process will assure that in addition to the federal and state oversight agencies, the SFDPH will also make certain that restrictions imposed through the CERCLA process are fully complied with during any subsurface work. See Mitigation Measures HZ1b, HZ 2a.1, HZ 2a.2, HZ 5a, HZ9, HZ10b, HZ12, and HZ15.

Concern 7.b. The FEIR fails to analyze the conflict between Proposition P and the Project's embrace of the Navy's remediation plans, which are not consistent with Proposition P. (CARE)

Response 7.b. As explained in Response 7.a, the Navy is still in the process of determining final remediation plans for some parcels including Parcel E-2. As explained in FEIR Master Response 9, Status of the CERCLA Process (C&R-107) the Navy has decided on remedial plans by issuing a final record of decision for Parcels B, D-1, G, UC-1 and UC-2. It is still working on remedial plans for Parcels C, D-2, E, E-2 and F. The Project does not favor or disfavor any of the Navy remediation plans or draft remedial plans or draft or final feasibility studies, which identify

possible remedial options. Instead, the FEIR does what is required by CEQA – it evaluates any possible impacts that could occur from exposure to hazardous materials, taking into account reasoned assumptions about the impacts that could occur during the development process. In determining what impacts could occur the FEIR evaluates the range of conditions under which the property could transfer from the Navy to the Agency. This is an appropriate analytical approach for CEQA, because CEQA requires an analysis of impacts that could occur with the project and in the case of hazardous materials exposures, it is appropriate to consider a worse case exposure analysis. This is precisely the approach used in the FEIR analysis. If the Navy ultimately decides to transfer the property with no residual contamination present, so that no exposure to hazardous materials could occur during the development process, the FEIR will have overestimated, not underestimated, the impacts of development.

Proposition P is discussed in detail in FEIR Master Response 15, Proposition P and the Precautionary Principle (C&R-136). Proposition P, which calls for the Navy to remediate the Shipyard for unrestricted residential uses, has no bearing on the analytical approach required by CEQA, which calls for a reasoned analysis of impacts that could occur with the development proposed. Further, the FEIR does not preclude the City from continuing to encourage the Navy to implement the principles identified by Proposition P. Thus, there is no conflict between Proposition P and the FEIR.

Concern 7.c. The FEIR does not properly address the environmental impacts associated with the early transfer of Parcel G and the Agency's remediation actions under this alternative particularly with housing at this location. (CARE)

Response 7.c. The FEIR recognizes that if Parcel G is used entirely for housing, portions of Parcel G could require additional remediation beyond the remediation required of the Navy by the record of decision for Parcel G. (See FEIR at page IV-106; FEIR Master Response 14, Unrestricted Use Alternative (C&R-135)). The Navy completed the record of decision for Parcel G based on the uses allowed in this area under the Hunters Point Shipyard Redevelopment Plan approved in 1997. The 1997 Redevelopment Plan provides that some portions of Parcel G will be used for industrial purposes. Consequently, and in accordance with the CERCLA process, the Navy is remediating Parcel G to satisfy these reuse criteria. The amendments to the 1997 Redevelopment Plan that are before the Board of Supervisors at this time, will allow for housing in portions of Parcel G that are currently zoned for industrial use. The property is expected to transfer from the Navy with a legally enforceable restriction on those portions of the property that are not designated as residential use. If the Agency wishes to place residential uses in these areas, it will need to obtain approval to do so from the U.S. EPA, the Navy, and Cal-EPA. To obtain such approval, it is possible that the Agency may need to undertake some additional soil removal or similar remedial action as is recognized in the FEIR at pages IV-106. (The Navy remediation project managers have verbally informed City staff that they believe it is likely that the Navy groundwater treatment in Parcel G will result in the Parcel being suitable for residential use even though the groundwater treatment system was not specifically designed to achieve a residential use standard.) Thus, the FEIR considered the impacts associated with remedial action that could be required at this location in the event it is used for housing.

Concern 7.d. The Navy has not finalized its remediation plans and as a result, the EIR cannot adequately address the impacts of development on these parcels. (CARE)

Response 7.d. The FEIR takes into account all possible conditions under which the property could transfer to the Agency as allowed by CERCLA. See Response 7.b.

Concern 7.e. The FEIR does not include an alternative that allowed for clean up of the Hunters Point Shipyard to a standard of residential use/unrestricted use under Proposition P. (POWER)

Response 7.e. The FEIR takes into account the possible conditions under which the property could transfer to the Agency. If the Navy were to choose to remediate the property to a residential use/unrestricted use condition, then it is expected that fewer impacts associated with hazardous materials would occur during the development process. However, the FEIR assumes that the property could transfer with residual contaminants remaining and identifies the impacts that could occur under this scenario. If the Navy instead transfers the property in a condition that does not require use restrictions, impacts would be reduced as compared to those identified in the FEIR.

Further, there is nothing in the FEIR that would preclude a developer, instead of the Navy, from remediating the property beyond the remediation that is required by a record of decision. The impacts associated with remediation of hazardous materials are identified in the FEIR, because it assumes that some of the property could be developed while some remediation remains to be completed. Thus, should a developer or the Agency choose to remediate any portion of the Shipyard beyond what is required by the CERCLA process in order to achieve the Proposition P objective of remediating the entirety of the Shipyard to a residential, unrestricted use (even though the Redevelopment Plan would not allow residential use in all areas of the Shipyard), the FEIR does not preclude this extra remedial action. Instead, the FEIR identifies impacts associated with remediation activities and identifies mitigation measures to address those possible impacts. While the FEIR does not specifically foresee that substantial remediation would occur beyond that required by the CERCLA process, the impacts associated with voluntary, extra remediation actions would be the same as the impacts identified that would be associated with remediation activities that are foreseen by the FEIR and discussed in particular in Impacts HZ 8, HZ 9, HZ 10, HZ 12, HZ 14.

Concern 7.f. The FEIR does not include an adequate remediation of the toxic contamination at parcel E-2. (POWER)

Response 7.f. Remediation of Parcel E-2 is not part of the Project, with minor exception (such as the installation of a road right of way on the edge of Parcel E-2). Rather, as explained in Response 7.a, the Project assumes that Parcel E-2 will not transfer from the Navy to the Agency until Parcel E-2 is determined by the regulators to meet the criteria for transfer with the CERCLA covenant that all remedial actions required to protect human health and the environment has been completed. Nevertheless, the FEIR does evaluate impacts associated with remediation activities as explained in Response 7.e, and the FEIR would not preclude further voluntary remediation of the Shipyard in the future beyond that currently envisioned by the Project as described in the FEIR.

Concern 7.g. The FEIR fails to provide for adequate oversight and enforcement of the Early Transfer Cooperative Agreement, Administrative Orders on Consent, and the Records of Decisions (RODs) and Remedial Designs for each parcel on the Candlestick Point and HPS Phase II sites. (POWER)

Response 7.g. As explained in Response 7a, the FEIR necessarily assumes compliance with applicable regulatory processes in evaluating both impacts and mitigation measures associated with hazardous materials and it would not be reasonable to assume otherwise given the legally enforceable and complex CERCLA process that is in place at the Shipyard. Although it would have been reasonable to rely entirely upon the CERCLA process to conclude in the FEIR that there would not be any impacts associated with exposure to hazardous materials, given the detailed nature of that process and its health protective mandates, the FEIR nevertheless takes an extremely cautious approach to hazardous materials impacts and instead assumes that the Agency and City cannot simply rely on the complex federal and state processes to make absolutely certain that no impacts will occur as a result of exposure to hazardous materials at the Shipyard that may remain at the time of Project implementation. Consequently, in MM HZ-12, the FEIR requires that all developers who wish to develop in areas that are subject to an early transfer cooperative agreement between the Agency and the Navy and administrative orders on consent between the Agency and U.S. EPA and Cal-EPA, must demonstrate to SFDPH that their proposed subsurface activities will fully comply with the requirements of the Early Transfer Cooperative Agreement (ETCA), Administrative Orders on Consent (AOC) and the ROD and Remedial Design (RD) documents. The effect of this mitigation measure will be to assure that no development activity occurs that is inconsistent with any restrictions on use that are contained in these documents. Thus the FEIR provides for an extra layer of oversight and enforcement above and beyond the layers of enforcement that will be in place and overseen by U.S. EPA and Cal-EPA as a result of the Agency entering into an ETCA with the Navy and an AOC with U.S. EPA and Cal-EPA.

Proposed amendments to Health Code Article 31 pending before the Board of Supervisors at this time provide a system for enforcement of the hazardous materials mitigation measures that SFDPH will have responsibility for enforcing under the FEIR. The proposed amendments require a developer seeking a permit for development from the City to submit proof to SFDPH "that it is complying with all environmental documents and restrictions, including without limitation as applicable, the AOC, ETCA, Covenant to Restrict Use of Property (CRUP), Land Use Control Remedial Design (LUC RD), Pre-Remedial Action Closeout Report (Pre-RACR) Risk Management Plan (RMP), Post-RACR RMP and Operations and Maintenance Plan (OMP)."

Concern 7.h. The FEIR fails to adequately mitigate for the potential lack of adequate oversight for remediation activities conducted by the Agency and the developer. (POWER)

Response 7.h. See Response 7.g. The FEIR identifies the SFDPH as the enforcement entity to assure compliance with hazardous materials mitigation measures. The SFDPH role is proposed to be formally put in place by amendments to Health Code Article 31, the Building Code and the Public Works Code that are proposed for approval by the Board as part of the Project approval actions. As provided in the proposed amendments, anyone seeking a permit from the City for development activities at the Shipyard would need to provide evidentiary support to SFDPH that the work will be done in a manner that is consistent with restrictions on the use of the property

that will have been imposed by the Navy through recorded deed restrictions at the time the property was transferred from the Navy to the Agency.

In addition, the Navy will enter into a covenant with Cal-EPA that will give Cal-EPA enforcement authority over the property with respect to enforcement of environmental restrictions. The covenant will run with the land and be binding on all subsequent owners, giving Cal-EPA the ability to bring enforcement actions against anyone who violates any of the restrictions placed on the property. See also Master Response 17, Enforcement of Environmental Restrictions and Mitigation Measures, C&R-144.

Concern 7.i. The FEIR fails to adequately analyze and mitigate for health risks related to chemical of concern in concentrations above risk levels at the Shipyard. (POWER)

Response 7.i. The EIR Section III.K provides a detailed summary of the status of contamination and remediation actions that have been taken at the Shipyard. This summary is further updated in the FEIR Master Response 9, Status of the CERCLA Process (C&R-107). As that summary indicates, the Navy has made substantial progress in remediating the Shipyard and further progress is anticipated to be made before more property transfers to the Agency. Upon transfer of property to the Agency, the property will either be fully remediated such that no exposure to chemicals of concern would occur above risk levels established by the regulators through the CERCLA process, or, the regulators would approve an early transfer in which the Agency agrees to complete some minimal additional remediation. Parcels B and G are under discussion at present for transfer as early transfer parcels and they provide a good illustration on the possible type of remaining remediation that may need to be completed before development can proceed. In the case of Parcel B, the property may transfer requiring the installation of a final cover to assure no long-term exposure to elevated levels of metals that are found in fill at the Shipyard (and are similar to fill at Mission Bay, for example). Also, there may be the need to install vapor barriers in some locations; these would be installed as part of the foundation work for buildings located in these areas. Finally, some further monitoring or remediation of groundwater plumes may be required. FEIR Master Response 13, Post Transfer Shipyard Cleanup (C&R-127) explains the nature of contaminants expected to remain at the Shipyard after transfer. The FEIR has taken into account the possibility that property may transfer with these sorts of remediation activities remaining to be completed and has identified mitigation measures to assure that no unacceptable exposures to any chemicals of concern would occur during and after completion of the remediation process.

The early transfer of Parcel B would exclude Installation Restoration (IR) sites IR-07 and IR-18 as indicated in Master Response 9: Status of the CERCLA Process (C&R-107). The ROD for Parcel B proposes a restricted use designation for IR-07 and IR-18 because the Navy has determined that the presence of radionuclides in the fill cannot be ruled out. See Master Response 13: Post-transfer Shipyard Conditions (C&R 127) for more details. Consequently, IR-07 and IR-18 will not transfer under an early transfer. Prior to transfer of IR-07 and IR-18 to the Agency, the Navy will complete the CERCLA remedial process and will support the transfer to the Agency with a Finding of Suitability to Transfer and will provide all of the covenants required by CERCLA that the property remediation is complete.

Concern 7.j. The FEIR fails to evaluate and assess the cumulative impacts of exposure to human and ecological receptors and the environment as a result of exposure to hydrocarbons, volatile and semi-volatile organic compounds, PCBs, pesticides, heavy metals, asbestos and radionuclides. (POWER)

Response 7.j. The FEIR evaluated cumulative impacts to human and ecological receptors and the environment from possible hazardous materials exposures in Section III.K at pages 118 through 124. As explained in the FEIR, risks associated with hazardous materials impacts are generally localized and site-specific with the exception of those resulting from transportation of hazardous materials. Although a number of different projects are identified in the FEIR as reasonably foreseeable development in this general area of the Project, all of the development projects are subject to a complex set of local, state and federal regulatory schemes that would serve to control releases of hazardous materials that might occur during the development process. As a result, it is anticipated that the laws and regulations that pertain to the handling of hazardous materials would be sufficient to minimize health and safety risks and would control the use, transport and disposal of hazardous materials during development activities. Therefore, it is not expected that the Project would make a considerable contribution to a cumulative hazardous materials impact.

Concern 7.k. The FEIR fails to adequately mitigate for exposure of various populations to toxins during remediation activities. (POWER)

Response 7.k. The FEIR thoroughly analyzes the possibility that some limited remediation activity could be undertaken by the Agency or its developer as part of the Project and identifies mitigation measures to address the possibility of exposure to hazardous materials by residents, workers or visitors. See in particular Section III.K at pages 53 through 109 and in particular the discussion of Impacts HZ 8, HZ 9, HZ 10, HZ 11, and HZ 12.

Concern 7.l. The FEIR fails to establish a mechanism for notification and education of community members and school population occupying property adjacent to the site about precautions and procedures to avoid and reduce exposure to hazardous materials from remedial and redevelopment activities at the Project site. (POWER)

Response 7.l. Master Response 16: Notification Regarding Environmental Restrictions and Other Cleanup Issues (C&R-141) provides a detailed summary of the various legal mechanisms in place to provide notification to and communication with owners and residents of the Project site, owners and residents of adjacent property, and residents and schoolchildren on neighboring properties regarding hazardous materials issues. In addition, the FEIR provides clarification in the text of several mitigation measures in response to comments received on the draft EIR regarding notifications to nearby areas.

In addition to notices that are required by the CERCLA process (for example, the Navy must provide detailed notices in the property deeds of all hazardous materials releases that have occurred and all remedial actions that have been taken) the FEIR includes mitigation measures that require various types of notices related to hazardous materials issues. MM HZ-2a.1, concerning the requirement to prepare contingency plans to address unknown contaminants, requires the plans to include appropriate notification to nearby property owners, schools and residents in the event of the discovery of unknown contaminants during construction activities.

MM HZ 15, concerning asbestos dust mitigation plans and dust control plans requires the establishment of appropriate protocols for notification of nearby schools, property owners and residents when monitoring results indicate asbestos levels have exceeded the standard set forth in the plan.

Concern 7.m. The FEIR fails to provide for dissemination of information on institutional controls and exposure avoidance mechanisms for Project occupants, visitors, and workers. (POWER)

Response 7.m. If institutional controls are required as part of the hazardous materials remediation plan for any parcel, the record of decision for the parcel is expected to set forth in detail the requirements for maintaining the institutional controls. Master Response 16: Notification Regarding Environmental Restrictions and Other Cleanup Issues (C&R-140) provides a further explanation of the CERCLA process and notices that will be provided through that process. For purposes of providing a clear description of how institutional controls will be enforced, the following provides a detailed summary of an example of what will be contained in the record of decision for each parcel where institutional controls are part of the remedy. The record of decision of Parcels D-1 and UC-1 is used here to illustrate this process. The final record of decision for those parcels (July 24, 2009) states as follows (at pages 47 and 48):

"ICs [institutional controls] will be implemented to prevent exposure to areas where potential unacceptable risk is posed by COCs [chemicals of concern] in soil and groundwater. ICs are legal and administrative mechanisms used to implement land use restrictions that are used to limit the exposure of future landowners or users of the property to hazardous substances present on the property, and to ensure the integrity of the remedial action. ICs are required on a property where the selected remedial cleanup levels result in contamination remaining at the property above levels that allow for unlimited use and unrestricted exposure. ICs will be maintained until the concentrations of hazardous substances in soil and groundwater are at such levels to allow for unrestricted use and exposure. Implementation of ICs includes requirements for monitoring and inspections and reporting to ensure compliance with land use or activity restrictions.

The Navy has concluded that it will rely on propriety controls in the form of environmental restrictive covenants as provided in the "Memorandum of Agreement Between the United States Department of the Navy and the California Department of Toxic Substances Control" and attached covenant models (Navy and DTSC 2000) (hereinafter referred to as the "Navy/DTSC MOA").

More specifically, land use and activity restrictions will be incorporated into two separate legal instruments as provided in the Navy/DTSC MOA:

1. Restrictive covenants included in one or more Quitclaim Deeds from the Navy to the property recipient.
2. Restrictive covenants included in one or more "Covenants to Restrict Use of Property" entered into by the Navy and DTSC as provided in the Navy/DTSC

MOA and consistent with the substantive provisions of the *California Code of Regulations* (Cal. Code Regs) tit. 22 § 67391.1.

The Covenant(s) to Restrict Use of Property will incorporate the land use restrictions into environmental restrictive covenants that run with the land and that are enforceable by DTSC and EPA as a third party beneficiary against future transferees and users. The Quitclaim Deed(s) will include the identical land use and activity restrictions in environmental restrictive covenants that run with the land and that will be enforceable by the Navy against future transferees.

The activity restrictions the "Covenant(s) to Restrict Use of the Property" and Deed(s) shall be addressed in the Land Use Control Remedial Design (LUC RD) Report that would be reviewed and approved by the FFA signatories. The LUC RD shall be referenced in the applicable Covenant to Restrict Use of Property and Deed. The LUC RD shall be submitted in accordance with the FFA schedule. The LUC RD shall specify soil and groundwater management procedures for compliance with the remedy selected in the Parcels D-1 and UC-1 ROD. The LUC RD shall identify the roles of local, state, and federal government in administering the LUC RD and shall include, but not be limited to, procedures for any necessary sampling and analysis requirements, worker health and safety requirements, and any necessary site-specific construction and/or use approvals that may be required.

Land use restrictions will be applied to specific portions of the facility and described in findings of suitability to transfer, findings of suitability for early transfer, "Covenant(s) to Restrict Use of Property" between the Navy and DTSC, and any Quitclaim Deed(s) conveying real property containing Parcels D-1 and UC-1 at HPS.

A Risk Management Plan (RMP) may be prepared by the City and County of San Francisco and approved by the FFA signatories that may set forth certain requirements and protocols for implementing the activity restrictions specified in the ROD."

The Navy shall address and describe IC implementation and maintenance actions including but not limited to frequency and requirements for periodic inspections during development and post development, monitoring, and reporting in the preliminary and final LUC RD reports to be developed and submitted to the FFA signatories for review and approval pursuant to the FFA (see "Navy Principles and Procedures for Specifying, Monitoring and Enforcement of Land Use Controls and Other Post-ROD Actions attached to January 16, 2004 Department of Defense memorandum titled "Comprehensive Environmental Response, Compensation and Liability Act [CERCLA] Record of Decision [ROD] and Post-ROD Policy").

The Navy is responsible for implementing, maintaining, reporting on, and enforcing land use controls. Although the Navy may later transfer these

procedural responsibilities to another party by contract, property transfer agreement, or through other means, the Navy shall retain ultimate responsibility for remedy integrity."

In sum, the ICs will be subject to a complex web of enforcement provisions. Property owners will be informed of the requirements in the deed and in the Covenant to Restrict Use of the Property that will be legally binding on all subsequent owners. The Covenant will set forth IC maintenance, inspection, and reporting requirements that the property owner will be responsible for completing and providing to the Navy, DTSC and U.S. EPA. The FEIR imposes mitigation measures that add an additional layer of enforcement to this already complex scheme by requiring that anyone who undertakes development activities must also satisfy SFDPH that the work will be done in strict conformance with the requirements in the deed and Covenant to Restrict Use of the Property.

Concern 7.n. The FEIR fails to incorporate adequate toxic dust mitigation based on the ineffectiveness of the measures used in Phase I. (POWER)

Response 7.n. Master Response 12: Naturally Occurring Asbestos (C&R-124) provides a detailed explanation of how the draft EIR addresses the issue of impacts associated with and mitigation measures to address dust that may contain toxic contaminants. As indicated on pages III.K-98 through 101 and MM -15, impacts related to asbestos exposure during construction activities would include enforcing and properly implementing dust control and monitoring procedures both through the Health Department's requirements to prepare a Dust Control Plan and through BAAQMD requirements to prepare an Asbestos Dust Mitigation Plan. Specific control measures would be required throughout the construction process. Depending on the particular site and work these controls could include operating particulate monitoring; sampling air for asbestos; controlling traffic and limiting vehicle speeds; limiting construction areas; wetting ground surfaces; minimizing soil stockpiles; washing down equipment before moving onto paved public roads; covering, wetting and hydroseeding soil stockpiles; covering trucks carrying soil; installing dust curtains and windbreaks; cleaning visible track out from paved public roads; and stabilizing disturbed areas. A hotline will be established for surrounding community members who may be potentially affected by Project-related dust and a contact person shall respond and take corrective action within 48 hours. For areas covered by the BAAQMD requirements, public visible signs would be posted around the site with the hotline number as well as the phone number of the BAAQMD and the numbers would be give to adjacent residents, schools and businesses.

The FEIR recognizes that there is community concern about the implementation of asbestos and dust control measures arising from the fact that during Phase I the Project Applicant's former asbestos air monitoring contractor failed to ensure proper operation of the air monitoring stations for several months of grading activities. However, the incident has been thoroughly reviewed by BAAQMD, UCSF experts, the Center for Disease Control, the Agency for Toxic Substances and Disease Registry, California Department of Public Health and most recently U.S. EPA Region 9. All of these reviews concluded that there was no significant health risk created by the grading activities at the Shipyard during Phase I work.

Concern 7.o. The FEIR relies on institutional controls that are neither safe nor enforceable. (POWER)

Response 7.o. See Response 7.m.

Concern 7.p. The FEIR fails to include mitigation to address a pattern of regulatory failure related to the politically charged nature of this development. (POWER)

Response 7.p. See Responses 7.g, 7.h, 7.l, and 7.n.

Concern 7.q. The FEIR fails to incorporate mitigation based on the poor environmental track record of Lennar. (POWER)

Response 7.q. See Response 7.n. See also Response to Comment 69-4 (C&R-1002).

8. LIQUEFACTION

Concern 8.a. The FEIR fails to assess and mitigate for potential liquefaction of the contaminated landfill at the Shipyard in the event of an earthquake. (POWER)

Response 8.a. As explained in Response 7.a, remediation of the landfill at Parcel E-2 is not part of the Project and the Agency has indicated that it does not intend to accept the transfer of Parcel E-2 from the Navy until the Navy has completed remediation of this parcel. As stated in Response 7.a, no decision has been made by the Navy and regulators as to the final remedial plan for Parcel E-2, but the range of possible remedial options identified in the draft feasibility study for the parcel include removal of the landfill, installation of an engineered cap at the landfill, or some combination of these options. As explained in Master Response 7: Liquefaction (C&R 83) if an engineered landfill cap is installed at the Parcel E-2 landfill, site-specific geotechnical studies, which would evaluate maximum potential earthquake and liquefaction potential, would be used in the design of the cap to minimize potential breaches or damage to the cap during a seismic event. An operation and maintenance plan would be carried out to monitor and repair any damage that occurs to the cap as a result of a seismic event. Additionally, emergency response plans would be carried out following major flooding and seismic events, at which time the cap would be investigated for potential breaches and repaired.

9. SEA LEVEL RISE

Concern 9.a. The FEIR fails to adequately mitigate for the impact of sea level rise based on a potential rise of 5 meters. (POWER)

Response 9.a. It is assumed that 5 meters is a typographical error, as there are no estimates from any source known to the EIR preparers that predict a sea level rise of 5 meters. The highest estimate in the literature thus far indicates a maximum SLR of 59 inches by the National Research Council. The subject of sea level rise is exhaustively addressed in Master Response 8 of the C&R document, which provides a comprehensive review of the literature. And, as noted in that Master Response, Section II.F.2, pages II-69 to -70, MM HY-12a.1 and MM HY-12a.2, pages III.M-100 to -103, of the Draft EIR discusses the measures planned to address sea level rise. In response to comments on the Draft EIR, an expanded discussion of the adaptive management strategy that would be used for this Project and specific mitigation measures that would be used for the development areas, storm drainage system, and shoreline protection are presented here. Based on the coastal study, literature review, and numerous discussions with other City agencies

(including SFPUC and DPW), the following strategy for protection against sea level rise has been incorporated into the project. It is comprised of four separate components:

Construction of a shoreline protection system that is initially built to accommodate a mid-term rise in sea level of 16 inches, with a design that is adaptable to meet higher than anticipated values in the mid term, as well as for the long term;

Construction of a storm drainage system that is initially built to accommodate a mid-term rise in sea levels of 16 inches, with a design that is adaptable to meet higher than anticipated sea level rise values (similar to the first bullet);

Construction of buildings and vital transportation infrastructure at elevations that would not be exceeded by flood waters, even if the shoreline protection does not function, for existing conditions and over a longer-term as compared to the two above;

Formation of an Adaptation Strategy that would include preparing an Adaptive Management Plan that outlines an institutional framework, monitoring triggers, a decision-making process, and creates an entity with taxing authority that would pay for infrastructure improvements necessary to adapt to higher than anticipated sea levels; and

Project features to accommodate sea level rise are described in Chapter II (Project Description) of the EIR, beginning on page II-70. These strategies and Project features will adequately protect for a sea level rise up to the currently predicted maximum.

10. BIOLOGICAL RESOURCES

Concern 10.a. The FEIR does not adequately address the Yosemite Slough Restoration Plan as an approved and ongoing plan; though Master Response 3 claimed that the Restoration Plan was one of the “planned and in progress wetland restoration projects” considered, the footnote accompanying the FEIR statement about these projects did not specifically mention the Yosemite Slough Restoration Plan.

Response 10.a. The Yosemite Slough Restoration Project is considered in the FEIR in the cumulative context and as one of the “planned and in-process wetland restoration projects within the Bay area” in the cumulative impact analysis on page III.N 118 of the FEIR. Additional, much more detailed analysis of the Project’s effects on the Restoration Project and its intended biological resources is contained in the FEIR, particularly in Master Response 3. Collectively, the DEIR, the revisions to the DEIR that were made and incorporated as part of the FEIR, and the C&R portion of the Final EIR (particularly Master Response 3) adequately address this comment.

Concern 10.b. The Navy’s mitigation wetlands and the Yosemite Slough Restoration Project should have been addressed similarly by the EIR, yet the responses to WRA’s comment on the FEIR pertaining to this issue are inadequate.

Response 10.b. Neither the Navy’s wetland mitigation nor the Yosemite Slough Restoration Project is currently in place, and thus neither project comprises part of the existing CEQA baseline. They are future potential impacts that are likely or foreseeable impacts, and are assessed based on the likelihood and timing of occurrence. Revisions to the DEIR that are incorporated into the FEIR, and the C&R portion of the FEIR (particularly Master Response 3), adequately assess impacts to future biological resources of the Yosemite Slough Restoration Project.

Concern 10.c. The bridge will impact the planned restoration of wetlands in Yosemite Slough, necessitating redesign of the Restoration Plan to ensure that the Plan fulfills its wetland mitigation responsibilities to BART and SFO projects.

Response 10.c. The FEIR analyzes the impacts of the Project on existing wetlands and aquatic habitat. This includes approximately 0.10 acres that would be permanently filled by the bridge, 0.99 acres that would be temporarily impacted during bridge construction, and 1.33 acres that would be indirectly impacted by shading within the proposed Yosemite Slough Restoration Project area. Mitigation measure BI-4a requires the replacement of the permanently filled and shaded areas with new or restored habitat at a 1:1 ratio, and mitigation measure BI-4c requires the replacement of permanently shaded aquatic habitats at a 0.5:1 ratio. Accordingly, if the bridge is constructed, the existing, degraded wetland habitat at the slough would be replaced with new or restored habitat elsewhere.

In response to public comment, the FEIR additionally analyzes the effect of the Project on the new or restored habitat that is proposed as part of the Yosemite Slough Restoration Project. Based on the plans for the Yosemite Slough Restoration Project provided to the City and Lennar as of the June 3, 2010 FEIR hearing date for the CPHPS Project, the Yosemite Slough bridge would not result in the fill of any areas proposed to be created as new/restored wetlands as part of the Yosemite Slough Restoration Project, and would not preclude the restoration of any new/restored tidally influenced habitat by the Restoration Project. As a result, the Yosemite Slough bridge would not preclude the ability of the Restoration Project to fulfill its wetland mitigation obligations or to achieve its goal of restoring approximately 12 acres of wetlands. With respect to indirect impacts, 0.007 acre of new wetlands to be restored by the Restoration Project would be permanently impacted by shading as a result of being located directly under the bridge. This impact would be mitigated to less than significant levels via implementation of Mitigation Measure BI-4a as explained in Master Response 3 of the FEIR (C&R-28-54).

Subsequent to the deadline for filing appeals, WRA, the consultants for the Yosemite Slough Restoration Project, submitted a new map identifying the projected limits of jurisdictional wetlands on the Restoration Project site following restoration. This map is substantially consistent with what was previously analyzed in the FEIR, with the only difference being an additional 0.0003 acres of new/restored wetland permanently filled by the northern bridge abutment, and an additional shading impact of 0.005 acres. Assuming these figures are accurate, they represent an extremely small area and have no effect on the impact analysis or conclusions of the FEIR.

Concern 10.d. The depiction of impacts in Figure III-N.7 of the FEIR is inaccurate because it does not show indirect impacts of noise, vibration, and lighting from the bridge on the islands to be created for breeding birds; the impacts of abutment construction on aquatic, wetland, or mudflat habitats (including future restored wetlands); or shading impacts to waters, mudflats, or vegetated wetlands other than directly beneath the bridge, and the FEIR does not adequately analyze these impacts.

Response 10.d. Figure III-N.7 depicts all areas in which wetlands, mudflats, and aquatic habitats, both existing and proposed by the Restoration Plan, would be filled either permanently or temporarily as a result of construction of the bridge. As discussed in Response 10.c, the impacts to these areas are fully analyzed in the FEIR, with the exception of the very small additional areas of proposed restoration lands that could be impacted, as described in the FEIR and Response 10.c. It is not feasible to depict on a figure the indirect effects of bridge construction and use on biological resources adjacent to the bridge; however, such impacts are discussed in detail in Master Response 3 of the C&R portion of the

FEIR, and were determined to be less than significant. Master Response 3 contains more detail that adequately responds to this comment.

Concern 10.e. The FEIR does not adequately analyze impacts to the types of habitats to be created by the Yosemite Slough Restoration Project or the species that will use the new/restored habitats.

Response 10.e. The habitats to be restored by the Restoration Project will be more extensive and higher-quality examples of the types of tidally influenced habitats and upland transition habitats that currently exist on the CPHPS Project site, but do not represent entirely new habitats. Further, although the Restoration Project will improve habitat conditions for certain plant and animal species, that new species that are currently absent from the CPHPS Project site are not expected to occur on the site solely as a result of the Restoration Project for the reasons explained in Master Response 3. The potential impacts of the bridge on species that could use the restoration site were thus analyzed in the context of existing conditions, as the species expected to use the restoration site after restoration implementation are species that are currently present at least occasionally on the site. As a result, the FEIR assesses impacts of the CPHPS Project to the types of habitats and species that would be present with or without the Restoration Project. In addition, it should be noted that the wetlands that will be created/restored by the CPHPS Project to compensate for the wetlands impacted by the bridge will be of a higher quality than the existing degraded wetlands, and will thus be of a quality comparable to what is proposed for that site by the Restoration Project. This comment is adequately addressed (and in greater detail) in Master Response 3 of the C&R portion of the FEIR.

Concern 10.f. Because Master Response 3 contains examples of areas where special-status species occur close to high levels of human disturbance, the level of human disturbance in and around Yosemite Slough should not be used as a reason why certain special-status species will not use the restoration site.

Response 10.f. Master Response 3 includes a number of reasons why certain special-status species, such as the double-crested cormorant and western snowy plover, are not expected to nest on the restoration site, even though the Yosemite Slough Restoration Plan proposes to construct nesting islands for those species. Those species are not expected to nest on those islands due to the unsuitability of the islands for nesting and the absence of any San Francisco Bay-area precedent for these species' use of such small, low islands completely surrounded by tidal waters. Master Response 3 of the C&R portion of the FEIR includes more detail regarding why certain special-status species are not expected to use the restoration site.

Concern 10.g. The FEIR does not adequately assess impacts from shading by the proposed Yosemite Slough bridge because it does not incorporate seasonal and hourly differences in shading of habitats that are not directly under the bridge, and thus underestimates the area affected by shading from the bridge; also, the FEIR should consider shading of 1.48 acres of mud flats and open water to be a significant impact.

Response 10.g. The FEIR considers impacts of shading by the bridge on both wetlands and other tidally influenced habitats (e.g., mud flats and aquatic habitats) under the bridge to be potentially significant impacts (in Impact BI-4c). As discussed in the FEIR, these impacts could be mitigated to less than significant levels only with implementation of Mitigation Measures MM BI-4a and MM BI-4c, both of which require restoration of habitat to compensate for lost ecological functions and values resulting from shading. Master Response 3 addresses the potential effects of shading on sensitive habitats that are not directly under the bridge, as shading during early morning hours (when the sun is

east of the bridge) would extend outside the bridge footprint into the restored tidal marsh to some extent, and such indirect shading would vary somewhat by season. However, indirect sunlight during these periods of indirect shading, and direct sun exposure during the afternoon, would allow substantial sunlight to reach these habitats that are not directly under the bridge. As a result, the effects of bridge shading on habitats that are not directly under the bridge are not expected to be substantial. Impacts of shading by the Yosemite Slough bridge on sensitive habitats are discussed in greater detail in the FEIR in Impact BI-4c and Master Response 3.

Concern 10.h. Whereas the FEIR states that the effects of shading on mud flat and aquatic habitat would be less substantial than on vegetated wetlands due to the differences in export of nutrients and organic material from these habitats, mud flats and aquatic habitats also export some nutrients and organic matter to other habitats. The mitigation ratio of 0.5:1 is thus insufficient and should be higher, and the FEIR should include more evaluation of habitat functional value to support this ratio.

Response 10.h. Although mud flats and aquatic habitats produce nutrients and organic compounds, the biomass that these habitats produce is considerably lower than that produced by vegetated wetlands. As a result, the loss or reduction in productivity of vegetated wetlands (and thus these wetlands' contributions of organic matter to the Bay as a whole) as a result of shading would be greater than the reduction in productivity of mud flats and aquatic habitats as a result of shading. Further, the loss of vegetation from wetlands as a result of shading would reduce habitat complexity considerably (in the extreme example, by converting well vegetated marsh to unvegetated flats), whereas shading would result in little alteration of habitat complexity in mud flats and aquatic habitats, which in the bridge footprint contain little or no aquatic vegetation. Even with shading, aquatic and intertidal species would be able to continue foraging in and moving through these mud flat and aquatic habitats. Therefore, the effects of shading by the bridge will be substantially less on mud flat and aquatic habitats than on vegetated wetlands, and a lower mitigation ratio is thus appropriate for shading impacts to mud flat and aquatic habitats (0.5:1) as opposed to vegetated wetlands (1:1). Additional discussion of shading impacts to mud flats and aquatic habitats is provided in the FEIR in Impact BI-4c and Master Response 3.

Concern 10.i. Because the Yosemite Slough Restoration Project specifies creation of habitat designed for special-status species, there is potential for future occurrence of these species on the site, and the FEIR should assess impacts to special-status species in Yosemite Slough and throughout the Restoration Plan area.

Response 10.i. Impacts of the CPHPS Project, including the Yosemite Slough bridge, on special-status species are assessed in Impacts BI-2 (Common Species and Habitats), BI-3 (Sensitive Plants), BI-6 (Birds), BI-7 (Raptors), BI-8 (Western Red Bat), BI-9 (Marine Fish and Mammals), BI-11 (Special-Status Fish), BI-16 (Sensitive Birds and Marine Mammals), BI-17 (Nesting American Peregrine Falcons), BI-18 (Sensitive Aquatic Species, Mollusks, and Essential Fish Habitat), and BI-22 (Special-Status and/or Legally Protected Species) of the FEIR. All special-status species that occur in the San Francisco Bay area, including those such as the western snowy plover and double-crested cormorant (for which the Restoration Project's bird nesting islands were designed) and the San Francisco common yellowthroat and California clapper rail (which were mentioned in the Restoration Project's Initial Study/Mitigated Negative Declaration as potentially benefiting from the Restoration Project) are considered in the FEIR (as discussed in Table III.N-5). However, it is not expected that the nesting islands will provide suitable habitat for the western snowy plover and double-crested cormorant, and the restored wetlands will be too small and too isolated from larger marshes to provide high-quality habitat for

clapper rails. Therefore, these “new” habitat areas are not expected to attract species other than those which currently use Yosemite Slough and South Basin at least occasionally, and thus the FEIR adequately assesses impacts to special-status species. Additional detail regarding the adequacy of the impact assessment for special-status species in Yosemite Slough is provided in Master Response 3.

Concern 10.j. The FEIR does not adequately analyze the effects of the Yosemite Slough bridge, including the combined effects of lighting, noise, vibration, and other bridge-related factors, on birds using the nesting islands to be created by the Restoration Project, nor does the FEIR cite specific studies indicating how nesting birds would respond to such sources of disturbance.

Response 10.j. As stated above, the two special-status birds for which the Restoration Project’s nesting islands are intended, the western snowy plover and double-crested cormorant, are not expected to nest on those islands due to unsuitability of projected habitat conditions. Several other bird species, including regionally abundant ducks (such as mallards) and perhaps western gulls (which currently nest on Double Rock nearby), may nest on these islands, and such species may be affected to some extent by disturbance associated with the bridge. However, (a) such species have habituated to intensive human disturbance in a number of other areas around San Francisco Bay and are likely to do so at Yosemite Slough, and (b) such a small number of individuals of those species, relative to their regional populations, would be affected by bridge-related disturbance that the impacts would be less than significant. As discussed in detail in Master Response 3, studies of the effects of noise or lighting on wildlife conducted in other areas and situations are difficult to apply to the Yosemite Slough bridge project, in part because many wildlife species are known to habituate to stimuli that do not result in obvious harm to them. Master Response 3 contains a detailed discussion of the potential effects of noise, lighting, and other potential sources of disturbance on birds and why the Yosemite Slough bridge is not expected to have a significant impact on bird use of the Restoration Project site.

Concern 10.k. By not identifying specific areas where Essential Fish Habitat (EFH) could be created to compensate for CPHPS Project impacts to EFH, the FEIR inappropriately defers mitigation and did not demonstrate that such mitigation is feasible.

Response 10.k. EFH can be created or restored by removing fill and restoring tidal waters that are used by certain fish species. Such restoration can occur in numerous areas within the Bay where past fill has been placed in tidal waters, and where such fill can be removed. The FEIR does not have to identify the precise site where such restoration will occur. CEQA allows for mitigation measures to set performance standards describing the necessary criteria for mitigation that will be required, and allows for an EIR to provide a menu of potential mitigation options (e.g., on-site restoration, off-site restoration, purchase of mitigation bank credits, or contribution to an off-site restoration project). Nevertheless, for informational purposes some Examples of tidal wetland restoration projects in San Francisco Bay that could potentially be funded by the CPHPS Project as mitigation for Project impacts (subject to approval by the regulatory agencies and agreement between the CPHPS Project and the landowner or entity planning the restoration projects) include the following restoration projects that are currently in the planning stages: Breuner Marsh restoration project in Richmond, Sears Point Restoration Project in Sonoma County, Albany Bulb Lagoon and Albany Salt Marsh Expansion projects in Alameda, and Novato Creek Antenna Field project in Novato. Those projects would include restoration of habitat suitable to compensate for one or more of the aquatic/wetland habitat types for which the CPHPS

Project would need mitigation: EFH, aquatic habitat for listed fish, and jurisdictional wetlands and aquatic habitats. The Newark Slough mitigation bank in Newark, currently in the planning stages, would also provide tidal wetlands that could satisfy mitigation requirements for the CPHPS Project. Other locations providing either diked or muted tidal wetlands that could be converted to fully tidal habitats to mitigate CPHPS Project impacts, or locations that contain fill that could be removed to provide tidal habitats for CPHPS mitigation (again, subject to regulatory concurrence and either acquisition of the property by the CPHPS Project or an agreement with the current landowner), include the Mosely Tract in Menlo Park, Seal Point Park in Foster City, Oyster Bay Regional Shoreline in Alameda, Shoreline Park north of Alameda Municipal Golf Course, and Point Isabel Regional Shoreline. Many of these locations are currently parks, but the owners may be willing to allow wetland restoration as a park/habitat amenity.

MM BI-4a.1 contains adequate detail to describe the required mitigation for CEQA purposes. It is possible that one or more of the many agencies from which approvals for this Project will be required, including the U.S. Army Corps of Engineers, Regional Water Quality Control Board, San Francisco Bay Conservation and Development Commission, or National Marine Fisheries Service, could object to mitigation at a site that is proposed during the CEQA process and require use of a different site. In that case, specifying a particular mitigation site during the CEQA process could complicate permitting by pitting the EIR against the regulatory agencies, if the CEQA document specifies the use of one site and the regulatory agencies require use of another. For that reason, the approach taken in the EIR (specifying the quantity and performance standards of the mitigation, laying out several options for satisfying the mitigation requirement, and stating that the mitigation option will be selected during the permitting process) was the appropriate approach, and the FEIR does not defer mitigation inappropriately. Response to comment 47-94 in the C&R portion of the FEIR adequately responds to this issue.

11. RECREATION

Concern 11.a. The FEIR fails to adequately assess impacts from transferring approximately 20 acres of public shoreline land in Candlestick Point State Recreation Area to the developer for the construction of high end housing. (SC)

Response 11.a. The CPSRA shoreline is over three miles long (approximately 18,103 feet). Only approximately 218 feet will be removed as part of the proposed reconfiguration, leaving the vast majority of the shoreline still part of the park. Most of the land to be removed from the park is separated from the shoreline by a wide area that will remain parkland. The land to be removed thus cannot accurately be called "shoreline land."

As explained in response to comment 47-28 and page III.P-32 of the Draft EIR, the land to be removed provides very little recreational benefit to CPSRA, while the Project will provide substantial improvements to the park. Because the CPSRA will provide more and better recreation opportunities after the Project than it does today, the EIR and the Planning Commission appropriately concluded that the Project would have a less than significant impact related to recreation.

Concern 11.b. The FEIR's conclusions with respect to the potential impacts from the Yosemite Slough bridge and the CPSRA land transfer are based on false, inaccurate and biased statements as evidence, including the statement that one cannot have an "undisturbed nature experience" in an urban area. (SC)

Response 11.b. As discussed in responses to comments 47-20 and 47-26, the EIR considers, as CEQA requires, the Project's impact on the existing physical environment. Yosemite Slough does not currently provide any significant recreational benefits or opportunities. Thus, constructing the bridge would not diminish any existing recreational experience or opportunity.

In response to several comments from the public and because the Yosemite Slough Restoration Project will contribute to the open space in the area of the Project, the Final EIR includes a thorough analysis of the Project's impact on future recreational activity at the Slough. This analysis, although not required by CEQA, is supported by substantial evidence in its conclusion that the proposed bridge would have a less than significant impact on future recreational experiences in the Slough. Urban and industrial uses, including equipment storage yards and illegal dump sites, currently surround the Slough as explained in the Bayview-Hunters Point Area Plan at pages 5, 6, and 9. These uses are outside the Project Area and will continue in place following implementation of the Project and the proposed Slough Restoration.

Thus, with or without the Bridge, the Slough will be an area of restored natural habitat surrounded by urban uses. The recreational experience there will not be an undisturbed experience of nature, but will instead be an experience of nature in an urban surrounding. The Candlestick Point Subarea Plan, which is a part of the Project, recognizes the hybrid nature of urban open space and calls for the planning of improvements to Candlestick Point State Recreation area to "to keep in mind characteristics that reflect its urban context in San Francisco."

The Bridge, therefore, would not transform an otherwise-natural experience into an urban one. Instead, it would add a further urban element to a hybrid experience. The aesthetic impact of this added element and its effect on views from the Slough to the Bay, is discussed extensively in the EIR, at responses to comments 31-14, 47-34, 47-36, 47-46 (which includes simulations of views from the Slough with the Bridge), 47-58, 47-73, 47-46, and 47-76. The EIR and the Planning Commission appropriately concluded that the Project, and the Bridge in particular, would have a less than significant impact on recreational opportunities in Yosemite Slough.

Concern 11.c. The FEIR did not address comments on the DEIR regarding the Project's recreational impacts on the Yosemite Slough. (CSPF)

Response 11.c. The Project's impacts on potential future recreation in Yosemite Slough are thoroughly discussed in response to comment 47-20. Responses to comments 31-14, 47-34, 47-36, 47-46, 47-58, 47-73, 47-46, and 47-76 provide further discussion aesthetic impacts in the Slough.

12. UTILITIES

Concern 12.a. The FEIR fails to adequately assess impacts resulting from the construction and maintenance of the Project's underground utilities. (SC)

Response 12.a. The Infrastructure Plan for the Project is described beginning on page II-45 of the FEIR. Construction activities related to the Project's underground utilities is included in the FEIR's discussion of project related construction impacts in the applicable sections of the FEIR, including Section III.D (Transportation and Circulation), Section III.H (Air Quality), Section III.I (Noise), Section III.J (Cultural Resources and Paleontological Resources), Section III.K (Hazards and Hazardous Materials), and Section III.M (Hydrology and Water Quality). Appropriate mitigation measures are provided in each section. For example, implementation of mitigation measures MM HZ-1a and MM HZ-2a.1 would ensure the safe handling of potentially contaminated materials encountered during improvement or installation of underground utilities. Additionally, MM TR1 requires a construction management traffic program that would mitigate impacts on local traffic, parking and sidewalks related to the construction of underground utilities.

13. GREENHOUSE GASES

Concern 13.a. The greenhouse gas analysis does not comply with CEQA because it does not conclude whether the total amount of Project emissions are a significant cumulative impact; a Project of this size must be a significant cumulative impact. (POWER)

Response 13.a. The FEIR contains a detailed analysis of greenhouse gases associated with the Project and fully complies with CEQA. The analysis follows technical guidance provided by the Governor's Office of Planning and Research (OPR), which is charged with issuing guidance on CEQA compliance. Further, the FEIR compares the results of the analysis to significance criteria for greenhouse gases recently adopted by the BAAQMD, even though as a technical matter, the BAAQMD is recommending that its recently adopted criteria be applied to Projects that issue notice of preparation after the BAAQMD adoption date of June 2, 2010.

Climate change is ultimately a cumulative impact. Emitting greenhouse gases here in San Francisco versus another city or county all contribute to the same cumulative effect of climate change. Therefore, all impact analysis for greenhouse gas emissions are discussed in the cumulative context. (FEIR, Section III.S at 34-35.) The FEIR concludes that the Project would not emit a substantial amount of greenhouse gases to result in a significant cumulative contribution to climate change based on a consideration of several different factors, all of which supported the conclusion that the Project's contribution to the cumulative effect of climate change would be less than significant in light of Project features and mitigation measures that were incorporated into the Project. Before coming to that conclusion, the FEIR analysis, consistent with guidance from OPR: (1) identifies and quantifies the greenhouse gas emissions associated with the Project; (2) assesses the significance of the impact on climate change; and (3) identifies mitigation measures to assure that the total impacts associated with the Project would be reduced to below a significance level.

The quantification of greenhouse gases associated with the Project are contained in FEIR Appendix S, Climate Change Technical Report Candlestick Point Hunters Point Shipyard Phase II, October 22, 2009. To determine whether the quantified amount of greenhouse gases from the Project would result in a significant impact the analysis evaluates the Project's emissions from several perspectives. First, the analysis considers whether the Project would substantially contribute to increasing greenhouse gas emissions in a manner that would conflict with the state goal of reducing greenhouse gas emissions and the City goal of reducing greenhouse gas

emissions as established by the San Francisco 2008 Greenhouse Gas Reduction Ordinance. The analysis concludes that the Project would not conflict with either state or local greenhouse gas reduction goals because the Project is a dense, urban infill project that would provide neighborhood-serving retail along with new residential uses, provide automobile and public transportation and pedestrian connections between the Project area and the larger Bayview neighborhood; provide for transportation and open space corridors, integrate land use patterns with a multimodal street network that facilitates walking and cycling for internal trips and transit for trips of greater distance; and contains landscape plans to reduce carbon emissions and plans related to energy efficiencies in building design. Although all of these features are part of the Project and were assumed in the analysis of greenhouse gas emissions, because those features that are not part of the inherent land use design need to be enforceable to assure their implementation, certain elements of the Project were identified as mitigation measures to assure that they would be implemented. These elements include the requirement to plant up to 10,000 new trees, exceed the 2008 standards for Title 24 Part 6 energy efficiency standards for homes and businesses by at least 15 percent; install Energy Star appliances and use light emitting diode based energy efficient street lighting. In addition to these Project features that would reduce greenhouse gases from the Project, the Project would also comply with and further a number of City policies designed to reduce greenhouse gas emissions, including complying with the green building ordinance, the transit first policy and the bicycle plan. See FEIR, Section III.S-36.

The analysis also looks to the proposed BAAQMD CEQA thresholds of significance (now adopted). BAAQMD has identified 3 possible ways for projects to assess the significance of their greenhouse gas emissions: Are the emissions consistent with a qualified greenhouse gas reduction strategy of the local jurisdiction; are the emissions less than 1,100 metric tons; or are the emissions less than 4.6 metric tons per resident or employee (called the "service population"). The last of these three analytical approaches proposed by BAAQMD allows large projects to potentially show that they will have a less than significant impact from greenhouse gases because the emissions would be consistent with the service population emissions required to meet Assembly Bill (AB) 32 goals. Both the 1,100 metric ton and the 4.6 metric ton per service population (efficiency metric) thresholds are based on BAAQMD's calculation of emissions reductions required to meet AB 32 goals. A large project such as this one has the potential to be much more efficient than a small project, given its ability to address such issues as broad areawide transportation systems, which smaller projects would be in no position to address. When the Project is compared to the BAAQMD's proposed 4.6 metric tons per service population, the results show that with all of the mitigation measures and Project features explained above, the Project would result in 4.5 metric tons per service population. The Housing/R&D Variant would result in similar metric tons per resident with the R&D Variant resulting in slightly greater (4.6 metric tons per service population) Under the Project with the stadium and the Housing/R&D Variant and R&D Variant the impacts from greenhouse gases are less than significant with mitigation.

Further, the FEIR concludes that emissions from construction-related activities would be less than significant because they would be required to comply with ARB's scoping plan and early action measures identified in that plan concerning emissions reduction measures for diesel trucks and diesel off-road equipment. Further, the Project also provides for mitigation to address air quality impacts during construction and the result of this mitigation will be to further reduce greenhouse gas emissions during the construction period because these mitigation further reduce

emissions from diesel trucks and off-road vehicles. MM AQ-2.1 provides that during the first two years of construction, 50% of the construction equipment shall meet U.S. EPA Tier 2 standards outfitted with California ARB Level 3 VDECS (Verified Diesel Emission Control Strategies), increasing to 75% of the fleet in the third year and 100% of the fleet starting in the fourth year for the duration of the Project. Further MM AQ-2.2 specifies that for construction activities in the Alice Griffith area, all construction equipment must utilize equipment that meet the U. S. EPA Tier 2 standards outfitted with California ARB Level 3 VDECS.

Concern 13.b. The greenhouse gas analysis impermissibly compares the project emissions to statewide emissions and finds Project emissions very small, fails to consider the incremental contribution of the Project's greenhouse gas emissions and improperly compares Project emissions to a business as usual scenario. Instead, the Project must use the existing environment as the baseline and then determine from that baseline if the Project causes significant environmental effects. (POWER)

Response 13.b. While the FEIR contains information about how the Project's emissions compare to statewide emissions and compares Project emissions to those that would result from a Project such as this were it to pursue a business as usual scenario, this information is provided simply for information purposes and to put the Project greenhouse gas emissions into a broader context. The analysis, thresholds used, and conclusions reached concerning whether the Project would have a substantial greenhouse gas impact are analyzed as explained in Response 13a. Further, as explained in Section III.S, the analysis of future greenhouse gases is consistent with ARB's Scoping Plan 2020 estimate of greenhouse gas emissions that would occur if no action is taken (the No Action Taken (NAT) scenario). The analysis compares the Project greenhouse gas emissions inventory to the projected future greenhouse gas emissions that would occur from a community that would be built today without Project design features and energy reduction commitments made by the Project Applicant. This NAT baseline comparison follows the regulations considered by ARB in developing its 2020 No Action Taken estimate as part of the Scoping Plan. Although this is one way to view the greenhouse gas emissions from the Project, the analysis also considers greenhouse gas emissions from the Project implementation in relation to total greenhouse gas emissions in the Bay Area and California. It also considers steps that California intends to take to reduce greenhouse gas emissions and actions the City and County of San Francisco is taking to reduce greenhouse gas emissions, including the City's Climate Action Plan and 2008 Greenhouse Gas Reduction Ordinance. This varied approach to greenhouse gas analysis reflects the fact that the analytical approach for analysis of greenhouse gases is evolving, with agencies exploring many different methodologies.

Concern 13.c. The FEIR does not support its conclusion that the greenhouse gases from the Project will be less than significant with mitigation and fails to analyze the reduction in emissions that will result from the mitigation. (POWER)

Response 13.c. As explained in Response 13.a, the analysis and conclusions both compare the Project features to a number of City and state policies that are designed to achieve relatively fewer per service population greenhouse gas reductions and quantifies the Project emissions and compares that quantified amount of emissions to BAAQMD criteria designed to determine whether a Project's emissions will make a significant contribution to greenhouse gases. As the Project's emissions will be less than the BAAQMD criteria, and as the Project contains numerous features designed to achieve City objectives aimed to reduce greenhouse gas reductions, the FEIR properly concludes that the Project will not result in a significant increase in greenhouse gases so as to contribute considerably to cumulative greenhouse gas emissions. The mitigation measures

identified and explained in Response 11a, are assumed as part of the analysis so that it is clear that with the mitigation, the Project will achieve the desired result.

The Project may in fact result in fewer greenhouse gas emissions than assumed in the analysis because the analysis makes a number of conservative assumptions about emissions. For example, the inventory of greenhouse gases assumes that all emissions from the CP-HPS Plan are "new" and that absent this development no emissions would occur except for the existing residences and the emissions associated with the existing stadium. In fact, some emissions might increase in the area of the Project were this Project not to proceed. Also, the inventory assumes that the electricity supply system and transportation system do not change in the future beyond the changes anticipate from the 20% Renewable Portfolio Standard in 2010 and the Pavley vehicle emissions standards. Since AB 32 mandates changes in both of these areas that would be expected to be in place during the life of the Project, the Project doubtless overestimates in greenhouse gas contribution. Finally, the analysis does not assume reductions from implementing a transportation demand management plan, the energy savings from replacing the existing 256 older homes now at Alice Griffith with more energy efficient buildings or the possibility that in the future reclaimed water could be used in the area because the Project will install dual piping for recycled water use, in the event it becomes available. In sum, the greenhouse gas analysis in the FEIR is comprehensive, complete, and conservative and properly concludes that with the mitigation measures described, the Project will not result in a significant contribution to greenhouse gas emissions.

14. VARIANTS

Concern 14.a. The FEIR fails to analyze two proposed heating and cooling plants (which appear to be power plants) to serve at least 10,500 units in the Project and a Project-wide recycling collection system. (SC; POWER)

Response 14.a. The Utilities Variant (Variant 4) analyzes the implementation of additional on-site utility infrastructure, including (1) district heating and cooling, (2) on-site wastewater treatment, and (3) an automated trash collection system. The proposed heating and cooling infrastructure is described in detail in Appendix T1 (District Heating/Cooling System) of the EIR. Under Variant 4, heating and cooling would be provided from a centralized plant, instead of individual systems in each building or facility. One heating and cooling (district) plant would serve Candlestick Point and a second district plant would serve Hunters Point, with hot water (or steam) and chilled water distributed from the district plant to individual buildings via a pipe distribution network located under the streets (refer to Appendix T1 [District Plant Description]). The FEIR analyzes both the construction and operational impacts associated with these utilities.

Under the proposed Redevelopment Plan Amendments, these utilities would be allowed only as secondary uses. In order to approve as secondary use, the Redevelopment Agency would be required to find that the use generally conforms with the redevelopment objectives and the applicable Design for Development, is compatible with principle uses and other nearby uses, is consistent with the Project's mitigation measures, and appropriately mitigates any adverse impacts, and does not materially impede the other planned uses and development of the project area.

Concern 14.b. The variants warrant additional analysis and render a project-level analysis of the Project inappropriate. (CSPF)

Response 14.b. The FEIR includes analysis of five primary development Variants and several Sub-Variants. (DIER, IV; C&R-2374-2451) These Variants and Sub-Variants examine discrete options for an element of the Project and, if approved, would either replace an element of the Project (i.e., the stadium, the location and height of the Towers on Candlestick Point, or certain utilities systems) or add an additional element to the Project (i.e., 49ers/Raiders shared stadium use). Except for these substitutions or additions to the Project, other aspects of the primary Project description remain the same.

As explained above in Responses 1a and 1b, the Project includes options for the development of the proposed stadium site on the Shipyard in the event that the stadium proposal does not proceed. Variant 1, the R&D Variant, Variant 2, the Housing Variant, and Variant 2a, the Housing/R&D Variant are the range of non-stadium development options consistent with the Project objectives that were evaluated in the FEIR. The FEIR also includes Variant 3, the Tower Variant and four sub-variants designated 3A, 3B, 3C and 3D, that analyze different options for the location and heights of Towers in the Candlestick Point area. Variant 4, the Utilities Variant analyzes options for an automated solid waste collection system, decentralized wastewater treatment, and district energy. Variant 5 analyzes the potential shared use of the stadium by the 49ers and the Oakland Raiders.

The FEIR analysis for the Variants/Sub-Variants is extensive, covering 248 pages in the Draft EIR and an additional 52 pages in the Comments and Responses. The approach to the analysis includes a detailed description of the Variant/Sub-Variant, figures depicting the Variant/Sub-Variant, a topic by topic analysis of the potential environmental impacts of the Variants/Sub-Variants, a comparison of the potential impacts with the impacts identified for Project, and identification of applicable and, in some instances, additional or amended mitigation measures. Variant/Sub-Variant specific supporting technical data was prepared as necessary for relevant environmental topics. These Variants/Sub-Variants are discrete, defined optional elements of this specific Project. Thus, as further explained in Response to Comment 47-11 (C&R-741-744), nothing in CEQA mandates preparation of a program EIR instead of a project EIR based on the inclusion of Variants/Sub-Variants.

With regard the Variant 4, the Utilities Variant, although the Redevelop Plan Amendments would allow these utility options as secondary uses, the Infrastructure Plan proposed for approval at this time does not include any of the elements in the Utilities Variant. Should any of these elements be pursued in the future, further review by affected City departments would be required. Additionally, under the Redevelopment Plans, special findings would be required to ensure that any adverse environmental impacts are mitigated.

In any event, all projects, including the CP-HPS Phase II Project, that require additional design or other discretionary approvals over a number of years may require further environmental review if any of the conditions set forth in Public Resources Code section 21166 and CEQA Guidelines section 15162 are implicated. These provisions basically require additional environmental review if substantial project changes, substantial changes in the project circumstances, or significant new

information becomes available that require major revisions of the EIR (e.g., a new significant impact or a substantial increase in the severity of a previously identified significant impact would occur). Even should future approvals require additional CEQA review, this potential does not dictate preparation of a program EIR for a discrete project proposal such as the CP-HPS Phase II Project.

15. ALTERNATIVES

Concern 15.a. The EIR does not independently analyze stadium relocation alternatives, because the evaluation of the stadium relocation occurred after voter adoption of Measure G, which encouraged relocation of the stadium as part of the Project. (CARE)

Response 15.a. CEQA does not prohibit establishing project objectives that encourage certain uses within a project. To the contrary, most projects identify the inclusion of specific uses (e.g., housing, open space, recreational uses, job-generating uses) as fundamental project objectives. Decision makers are not required to approve a project that meets every project objective. In the case of this Project, the City has the authority, independent of any decisions by the NFL or the 49ers, to decide whether to approve the stadium option, approve one or more of the non-stadium options, or approve both a stadium and a non-stadium option(s).

Moreover, Proposition G encouraged both a stadium and a non-stadium development options for the Shipyard and thus cannot be accurately characterized as precluding an independent analysis of relocation options. (See Response 1.b) The FEIR fully evaluates a number of non-stadium Variants and Alternatives. The FEIR includes three non-stadium development options: Variant 1, the R&D Variant; Variant 2, the Housing Variant; and Variant 2A, the Housing/R&D Variant. The FEIR considers several Alternatives that do not include a new stadium Alternative 1, the No Project Alternative; Alternative 3, which would assume that the 49ers continue to use the existing Candlestick Park stadium; Alternative 4, a reduced development alternative that assumes no stadium would be accommodated in the Project; and Alternative 5, which assumes no new stadium would be accommodated in the Project. Additionally, the FEIR alternatives chapter provides an analysis of the feasibility of several other on-site and off-site locations for the stadium based on a planning study submitted by ArcEcology (FEIR VI-160-170). Alternative sites examined included the Brisbane Baylands South, the Brisbane Baylands North, Pier 80 in San Francisco, and Piers 90-94 in San Francisco. Three alternative locations within the project site, Parcels B, C and G, were also considered. Therefore, in compliance with CEQA, the FEIR analyzes a reasonable range of stadium and non-stadium options and alternatives.

16. SOCIOECONOMIC ISSUES

Concern 16.a. The FEIR fails to analyze and mitigate for displacement that would be triggered in the surrounding neighborhood by the massive increase of market rate housing in the area. (POWER)

Response 16.a. CEQA Guidelines section 15131 provides that economic and social changes do not constitute significant environmental effects unless the evidence shows that physical changes will result from these economic and social changes. The FEIR determines that the Project would not displace any existing housing units or residents (FEIR, III.C-21-22).

The Project includes funding, facilities, and programs intended to benefit the existing Bayview Hunters Point (BVHP) community, which is immediately adjacent to the Project. In addition to the improvements provided as part of the proposed development, such as new parks, transit and roadway improvements, artist replacement space and other public facilities, and the Project's below-market rate housing program, the Project provides funding for additional community benefits including workforce development, jobs, education, and community health and wellness programs that will provide tangible benefits to the adjacent BVHP community. These community benefits, which are set forth in the Disposition and Development Agreement (DDA) between the Agency and CP Development Co., LP, a joint venture between Lennar and Scala Real Estate Partners, Hillwood, and Estein and Associates, USA (the Developer), are further described below.

Below-Market Rate Housing

The Below-Market Rate Housing Plan (Housing Plan) provides for the development of approximately 3,345 affordable and below-market housing units on the Project site. These housing units include a variety of unit types, sizes, and structures, and a wide range of affordability levels subject to necessary governmental approvals. The Project includes the redevelopment of the Alice Griffith public housing site pursuant to the principals and goals of Proposition G and the HOPE SF Principles. To accommodate the needs of families, the market rate, affordable, and below-market housing units average 2.5 bedrooms (excluding those specifically offered to senior or disabled residents).

The Project includes permanently affordable Alice Griffith Replacement Units, Agency Affordable Units and Inclusionary Units. The Project also includes Workforce Units designed for entry-level households that earn too much to qualify for traditional affordable housing, but too little to purchase a home. The breakdown of the below-market rate units is as follows:

Unit Type	Number	Affordability
Alice Griffith Replacement Units	256	Existing affordability levels remain
Agency Affordable Units	1,388	Up to 60% AMI, but goal is <= 50% AMI (\$0 to \$52,250 for household of 3)
Inclusionary Units	809	80%-120% AMI (\$69,700-\$104,500 for household of 3)
Workforce Units	892	121%-160% AMI (\$105,391-\$139,350 for household of 3)
TOTAL	3,345	

The adjacent BVHP community will benefit from the below-market rate housing provided in the Project because members of the adjacent community may qualify for the housing and the extent of below-market rate housing assures that the adjacent development will serve a wide range of income levels and, therefore, not simply create a high-priced adjacent area that may have overflow effects that dramatically alter the affordability of adjacent BVHP area.

Community First Housing Fund

The Project also includes a \$28,665,000 contribution towards a Community First Housing Fund to provide assistance to qualifying residents, including residents in the BVHP and greater District 10 area, in the purchase of market rate homes in District 10 through opportunities such as down payment assistance, rent-to-own opportunities, purchase of buildable pads, and/or the purchase of units, inside or outside of the Project, including those specifically designed for senior citizens. The Community First Housing Fund, which will help residents in BVHP and District 10 purchase homes, in combination with the Project's broad range of below-market rate housing opportunities, will benefit the residents of the adjacent BVHP community.

Education

The Project supports the existing BVHP community's youth through a number of educational enhancements and contributions. The Project includes a \$3,500,000 contribution toward a scholarship fund to support educational opportunities for youth and adults up to 30 years old living in BVHP. The Project also includes a \$10,000,000 contribution for education enhancements within the Bayview Hunters Point community, which may include new facilities or upgrades to existing education resources and health and wellness education in the adjacent BVHP area or within the Project. The use of these funds will be determined through a community-based process that includes representatives of the San Francisco Unified School District, the BVHP community, the Office of Economic and Workforce Development, and the Agency.

Space within the Project will be dedicated to the provision of library services to supplement the expanded Bayview branch of the San Francisco Public Library, including a reading room and automated book-lending machines integrated into community retail and public facilities. As a result, BVHP residents will have expanded access to educational resources through the reading room and book lending facilities that will be provided within the Project.

Community Health and Wellness

The Project provides \$2,000,000 in funding to be used to create a center in Bayview Hunters Point focused on the health and well being of children, youth, and their families, which may include the Southeast Health Center. The center would be designed to serve the health and wellness needs of the existing and future residents of the BVHP area. The center will be developed and implemented in conjunction with the San Francisco District Attorney's Office, the San Francisco Department of Public Health, and others with expertise in the field.

Workforce Development

The Project's workforce development programs and local business measures are targeted toward residents and BVHP residents in particular. The Project is expected to create approximately 10,000 permanent jobs across a broad range of income and skill levels, including retail and sales, building and open space maintenance and management and in commercial, office, light industrial and research and development jobs. The Project will also generate significant construction job opportunities per year for the expected build-out of the development across a wide range of building trades.

All of these permanent and construction opportunities will be subject to the existing Bayview Hunters Point Employment and Contracting Policy, which after intensive collaboration with the

Bayview Hunters Point community and endorsement by the Bayview Hunters Point Project Area Committee, was adopted by the Redevelopment Agency Commission for the Bayview Hunters Point Project Area in 2007. In addition, the Bayview Hunters Point Employment and Contracting Policy requires compliance with the Agency's Small Business Enterprise Policy. Together, these documents will cover the entire Project from construction hiring to contracting for professional services. The Project's employment and contracting requirements establish a 50 percent goal for local contracting, construction and permanent workforce hiring with first consideration in the following order:

1. BVHP residents living within the areas encompassed within the 94124 zip code,
2. BVHP area residents within the areas encompassed within the 94124, 94134 and 94107 zip codes,
3. Residents living in any other active Redevelopment Project Area in the City of San Francisco,
4. All San Francisco residents, and
5. All others.

All permanent employers and construction contractors will work with community based organizations (CBOs) for hires. For permanent workforce jobs, the Project will comply with the City's "First Source Hiring Program" under which the City will have the opportunity to train economically disadvantaged individuals for positions in the Shipyard and Candlestick Point, and Project employers will give first priority to hiring such individuals referred from the City's workforce program. The Project will utilize the City's CityBuild Sector Academies and CBOs to maximize access to professional development opportunities.

In order to ensure that local BVHP residents are prepared to realize these opportunities, the Project includes a \$8,925,000 contribution to fund workforce training and placement programs for local BVHP residents. The City's Office of Economic and Workforce Development has committed to matching these funds with compatible programs and services.

Local Business Development/Community Asset Building

The Project also provides a range of additional programs designed to create opportunities for small and local businesses in BVHP, including the following:

- A community builder program designed to support the participation of local BVHP builders in the construction of both market rate and below-market rate housing;
- \$2,500,000 for construction assistance programs designed to provide technical assistance and contractor workshops in conjunction with the Project's local hiring, disadvantaged business and other workforce development programs, including a program to assist local BVHP truckers in securing contracts related to the Project;
- \$1,000,000 contribution towards the Agency's surety bond program designed to assist local BVHP contractors in obtaining insurance and credit support;

- A community realtor program designed to provide specific opportunities for licensed brokers and salespersons in the BVHP area; and
- Specialized programs including space within the Project for business incubation to jump-start the location and development of innovative business, including cleantech, greentech, biotech, arts and digital media, and space for an International African Marketplace within the Project for the display and sale of arts, crafts, clothing, books, and other goods.

Community Benefits Fund

One-half of one percent from the sale of each market rate home will be deposited into a Community Benefits Fund which will be reinvested in the Project site and the BVHP area to benefit low- and moderate-income families; eliminate blight; and/or meet other community development needs of the BVHP area including those related to social services, affordable housing, education, the arts, public safety, assistance for senior citizens and other community services.

Collectively, the Project's many community benefit components from the below-market rate housing opportunities, housing payment assistance, education enhancements, health and wellness contributions, workforce development and training measures, local business assistance programs, and community benefits fund are all designed to enhance, strengthen and target the needs of the BVHP community that exists adjacent to the Project site.

17. OTHER CONCERNS

Concern 17.a. Planning Commissioner Antonini should have been recused from voting on the Project, because he had pre-judged the Project and publicly advocated inclusion of a football stadium. (POWER)

Response 17.a. Commissioner Antonini made a statement at the Planning Commission hearing on June 3, 2010, to address this issue. He stated in part: "There have allegations by some members of the public that I am biased in favor of the project being considered today and that I cannot act objectively. I would like to respond to these allegations. While it is true that I have been an advocate for keeping the San Francisco Forty Niners playing their National Football League games in San Francisco, I can unequivocally be open-minded, fair and objective in considering the items before the Planning Commission today. The second Proposition G, passed overwhelming by the voters of San Francisco in June 2008, calls for efforts to retain the San Francisco Forty Niners that Proposition G called out as "a source of considerable civil pride." I believe that it is not wrong to be a strong advocate for the preservation of our treasured civic institutions be they the San Francisco Ballet, the San Francisco Opera, our fine art museums, the 12th District Federal Reserve Bank, or the San Francisco Giants. However, despite my personal feelings regarding the Forty-Niners, I am here today to listen, with an open mind, to all of the testimony and I believe that I can act in the City's best interest and that I can be a fair and impartial decisionmaker. I will consider all options – including the no project alternatives and the other proposed alternatives – with an open mind."

Concern 17.b. The FEIR should have been prepared as a joint EIR/EIS and involve the appropriate federal agencies. (POWER)

Response 17.b. As discussed in the FEIR, there is no legal requirement mandating preparation of a joint EIR/EIS. (C&R-784) Instead, Section 15170 of the CEQA Guidelines allows, but does not require, the use of a joint EIR/EIS in circumstances where a project must comply with both CEQA and NEPA. The City/Agency consulted with the Navy in the early stages of preparing this EIR to determine whether to prepare a joint document. The parties agreed that it would be best to proceed with separate documents. The EIR covers a project that is located on both the Hunters Point Shipyard and Candlestick Point, involving amendments to two Redevelopment Plans. The Navy project is geographically limited to the Hunters Point Shipyard and the EIS analysis will be focused on the proposed revisions to the reuse plan for the Shipyard in order to allow for the continuing transfer of the Shipyard parcels to the Agency. This fundamental difference in the scope of the project to be analyzed in the EIR and the EIS rendered a joint document impractical. The Navy is preparing a supplement to the EIS prepared in 1999/2000. The City/Agency has provided the Navy with the background data and studies prepared for the EIR for the Navy's use in preparing the Supplemental EIS. Other federal agencies with approval authority over an aspect of the Project must comply with all applicable federal regulations, including appropriate NEPA review. The preparation of a separate EIR and EIS does not impede the ability of federal agencies to fulfill their regulatory requirements, including any necessary environmental review under NEPA.

18. RE-SUBMITTAL OF DRAFT EIR COMMENT LETTERS

The following letters have been responded to in the C&R document as indicated by the corresponding references:

a. POWER Attachments

- Juana Tello 1/12/10 letter (#66), please see C&R pp 963-969
- Sue Hestor 1/12/10 letter (1st of two letters, #43), please see C&R pp. 590-602
- Sue Hestor 1/12/10 letter (2nd of two letters, #50), please see C&R pp. 825-843
- POWER 1/12/10 letter (#52), please see C&R pp. 857-862
- Technical Assistance Service for Communities, Wilma Subra 1/12/10 letter (#68), please see C&R p. 995 (POWER)

b. CSPF 1/12/10 letter and attachments (#47), please see C&R pp. 731-803. (CSPF)

19. PROJECT APPROVAL FINDINGS

Concern 19.a. The Planning Commission did not identify and select the least impactful alternative. (CARE)

Response 19.a. Appellant CARE objects to the CEQA Findings adopted by the Agency Commission upon its approval of the Project (Resolution 59-2010) because, CARE argues, the CEQA Project Approval Findings of the Agency should have explained how the degree of impact would differ among variants. The CEQA Approval Findings adopted by the Planning Commission and the Agency Commission are not subject to appeal to the Board.

The "Project" as analyzed in the FEIR includes four possible development scenarios at the stadium site in Hunters Point Shipyard: (1) a stadium, (2) a mix of housing and research and development uses (e.g. the "Housing/R&D Variant"), (3) research and development uses (the "R&D Variant"), and (4) housing uses.

The FEIR considers different development scenarios at the stadium site because of the uncertainties associated with the ultimate development that will occur at this location. While Proposition G calls for providing an opportunity for a NFL stadium, the decision as to whether to locate a stadium at this site does not lie solely with the Agency or the City. Further, while the developer has expressed interest in locating housing as an alternative use on the stadium site in the event the stadium does not get developed, allowed uses at this site will be dictated by the Navy and federal and state regulators.

The regulators overseeing the remediation of the Hunters Point Shipyard have approved and the Navy has issued a record of decision (ROD) for Parcel G that identifies a remedial plan for Parcel G. (*Record of Decision for Parcel G, Hunters Point Shipyard, March 2009*) The ROD took into account the uses allowed on Parcel G at the time the Navy finalized the ROD and much of Parcel G at that time was zoned for industrial use under the 1997 Redevelopment Plan for Hunters Point Shipyard. Unless and until the Board of Supervisors agrees to amend the Hunters Point Shipyard Redevelopment Plan, industrial uses are the authorized use on most of Parcel G (proposed Redevelopment Plan amendments authorizing other uses are pending before the Board of Supervisors at this time as part of the proposed Project approval actions, See Board File No. 100659). Accordingly, the Parcel G ROD provides for remediation appropriate to an industrial use and provides for restrictions on residential uses. The Redevelopment Agency does not have the legal authority to remove or ignore those restrictions, which will be enforced, as explained in Response to Concern 11.m through deed restrictions and Covenants to Restrict Use of Property entered into between the Navy and DTSC. The deed restrictions and covenants are binding on all subsequent property owners. Although it is the intention of the Redevelopment Agency to seek authorization to use Parcel G for residential use, in the event that the San Francisco 49ers decline the opportunity to locate a stadium on Parcel G, and although the Agency is reasonably optimistic that such authorization will be granted by the regulatory agencies and the Navy, (see Response to Concern 11.c) the ultimate decision to allow residential use at this location is not within the legal control of the Agency. Although the R&D Variant is not an alternative to the Project but actually part of the Project, a clear legal justification for including the R&D Variant as part of the Project and not rejecting it is because if the stadium is not constructed by the San

San Francisco 49ers, the Redevelopment Agency may not be authorized to implement the Housing/R&D Variant, much as it may wish to do so.

Uses analyzed under the variants are being proposed by the project sponsors, and as identified in the FEIR, any of these could be proposed for adoption as part of the Project. In accordance with the requirements of CEQA, the FEIR also considers several alternatives to the project that would reduce or avoid significant impacts identified in the FEIR. CEQA does not require the selection of the least impactful alternative. Rather, CEQA specifies that where an environmental impact report has been prepared that identifies significant impacts, for each impact the public agency shall make findings that either mitigation measures will mitigate or avoid the significant effects, the authority to mitigate the effects is the responsibility of another agency or due to specific economic, legal, social, technological or other considerations, mitigation measures or alternatives identified in the environmental impact report are infeasible. If the public agency finds that mitigation measures or alternatives are infeasible, it shall find that specific overriding economic, legal, social, technological or other benefits of the project outweigh the significant effects on the environment. CEQA Section 21081; CEQA Guidelines Sections 15091, 15093. The Planning Department prepared findings for consideration by the Planning Commission as part of its approval of the Project in accordance with CEQA and the Planning Commission adopted those findings. The Board of Supervisors will adopt its own CEQA findings in support of any approval actions that it takes with respect to the Project.

Concern 19.b. The approval findings failed to identify how significant impacts would differ between the Project with the stadium, the R&D Variant and the Housing/R&D Variant. (CARE)

Response 19.b. Appellant CARE objects to the CEQA Findings adopted by the Agency Commission upon its approval of the Project (Resolution 59-2010) because, CARE argues, the CEQA Project Approval Findings of the Agency should have explained how the degree of impact would differ among variants. The CEQA Approval Findings adopted by the Planning Commission and the Agency Commission are not subject to appeal to the Board.

The FEIR identifies the differences between the project with the stadium and the project with other uses at the stadium site (e.g. R&D Variant, Housing/R&D Variant). Although for some resource areas, impacts are identified as somewhat greater under the R&D Variant or the Housing/R&D Variant as compared to the Project with the stadium, the differences are of a small degree and the significance conclusions are the same under these different development scenarios such as in the case of air quality, greenhouse gases, hydrology and water quality and public services. In the case of transportation impacts, the type of impacts identified under the R&D Variant, Housing/R&D Variant, and the Project with stadium are the same, although the degree of the impact would be somewhat different. The R&D Variant would result in significant impacts at six intersections for which there is not a significant impact with the Project with the stadium. In the case of two of these intersections, the impact can be mitigated to a less-than-significant level. The Housing/R&D Variant would have a significant impact at three intersections not affected by the Project with the stadium. At one of these intersections, the impact could be mitigated to a less-than-significant level. In the case of noise impacts, the R&D Variant would result in a significant noise impact associated with traffic on two streets for which the Project with the stadium would not result in a significant impact. The CEQA approval findings on file for Board consideration reflect these differences.

CONCLUSION

The Department conducted an in-depth and thorough analysis of Candlestick Point-Hunters Point Shipyard Phase II project under the CEQA Guidelines. The Appellants have not provided any substantial evidence to refute the conclusion of the Department.

For the reasons provided in this appeal response, the Department believes that the FEIR complies with the requirements of CEQA and the CEQA Guidelines, provides an adequate, accurate, and objective analysis of the potential impacts of the Project. Therefore, the Planning Department respectfully recommends that the Board uphold the Planning Commission's certification of the FEIR.